
Stamp Duty (Amendment) (No. 2) Ordinance 2014

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HONG KONG SPECIAL ADMINISTRATIVE REGION

ORDINANCE NO. 14 OF 2014



C. Y. LEUNG
Chief Executive
24 July 2014

An Ordinance to amend the Stamp Duty Ordinance to increase the stamp duty on certain instruments dealing with immovable property; to make agreements for sale of non-residential property chargeable with stamp duty; to revise the provisions concerning the effect of instruments not duly stamped; to empower the Financial Secretary to amend certain matters specified in the First Schedule to the Ordinance; and to provide for related matters.

[23 February 2013]

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Stamp Duty (Amendment) (No. 2) Ordinance 2014.
- (2) Except as provided in subsections (3) and (4), this Ordinance is deemed to have come into operation on 23 February 2013.

Stamp Duty (Amendment) (No. 2) Ordinance 2014

Part 1
Section 1

Ord. No. 14 of 2014
A1387

- (3) Section 28(3) is deemed to have come into operation on 19 July 2013.
 - (4) Sections 3, 29 and 30 come into operation on the day on which this Ordinance is published in the Gazette.
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Part 2

Amendments to Stamp Duty Ordinance

2. Stamp Duty Ordinance amended

The Stamp Duty Ordinance (Cap. 117) is amended as set out in this Part.

3. Section 15 amended (non-admissibility, etc. of instruments not duly stamped)

(1) Section 15(1)—

Repeal

“subsections (1A) and (1B)”

Substitute

“subsection (1A) and section 15A”.

(2) Section 15—

Repeal subsection (1B).

(3) Section 15(3)(a)—

Repeal

“, or is an agreement for sale that either contains a statement to the effect that it relates to non-residential property within the meaning of section 29A(1)”.

4. Section 15A added

After section 15—

Add

“15A. Exception to non-admissibility of instruments not duly stamped with ad valorem stamp duty and buyer’s stamp duty

- (1) This section applies to an instrument that is not duly stamped only because it falls within either or both of the following—
 - (a) the specified amount (as defined by section 29DH(1)) payable for the instrument under section 29DH(3) or (5) is not paid;
 - (b) the buyer’s stamp duty chargeable on the instrument is not paid.
- (2) Despite section 15(1), the instrument may be received in evidence in civil proceedings before a court if—
 - (a) for a conveyance on sale—it is produced in evidence by a person who is not the transferee under the instrument; or
 - (b) for an agreement for sale—it is produced in evidence by a person who is not the purchaser under the instrument.”.

5. Section 25 amended (stamp duty chargeable in case of certain conveyances)

Section 25(7)—

Repeal

“section 27”

Substitute

“sections 27, 29AO and 29AP”.

6. Section 26 repealed (stamp duty chargeable on contracts, etc. for sale of equitable estate or interest in immovable property)

Section 26—

Repeal the section.

7. Part IIIA heading amended (agreements to sell immovable property)

Part IIIA, heading—

Repeal

“**AGREEMENTS TO SELL IMMOVABLE PROPERTY**”

Substitute

“**Certain Instruments Dealing with Immovable Property**”.

8. Part IIIA, Division 1 heading added

Before section 29A—

Add

“**Division 1—Preliminary**”.

9. Section 29A amended (interpretation and application of Part IIIA)

(1) Section 29A(1), definition of *agreement for sale*, paragraph (h), before “an instrument in which”—

Add

“except as provided in section 29AB,”.

(2) Section 29A(1), definition of *agreement for sale*, paragraph (h)—

Repeal

everything after “third party”

Substitute a semicolon.

(3) Section 29A(1), Chinese text, definition of 購買人, paragraph (c)—

Repeal the full stop

Substitute a semicolon.

(4) Section 29A(1)—

Add in alphabetical order

“*transferee* (承讓人), in relation to a conveyance on sale (except as provided in section 29AO(5)(b) or 29DC(1)(b) and (2)(b)), means the person to whom the property concerned is transferred, or in whom the property is vested, under the conveyance;

transferor (轉讓人), in relation to a conveyance on sale (except as provided in section 29AO(5)(a) or 29DC(1)(b) and (2)(b)), means the person from whom the property concerned is transferred or divested under the conveyance;”.

(5) Section 29A(5)—

Repeal

“1(1A), (1B)”

Substitute

“1(1B)”.

(6) After section 29A(7)—

Add

“(8) In this Part and section 71—

(a) a conveyance on sale is executed in conformity with an agreement for sale only if it is executed as provided in section 29D(6)(c); and

(b) a conveyance on sale is executed in pursuance of an agreement for sale only if it is executed as provided in section 29D(6)(d).”.

10. Sections 29AB to 29AH added

After section 29A—

Add

“29AB. Nominations or directions that are not agreements for sale

- (1) A nomination or direction is excluded from paragraph (h) of the definition of *agreement for sale* in section 29A(1) if—
 - (a) it is made or given in favour of a person who is to be a trustee for the purchaser mentioned in paragraph (h) of that definition in respect of the property concerned;
 - (b) in so far as it relates to head 1(1A) in the First Schedule—
 - (i) the property is residential property; and
 - (ii) it is shown to the satisfaction of the Collector that subsection (2) applies to the nomination or direction; or
 - (c) in so far as it relates to head 1(1B) and (1C) in the First Schedule—
 - (i) the property is residential property; and
 - (ii) subsection (3) applies to the nomination or direction.
- (2) This subsection applies to the nomination or direction if—
 - (a) it is made or given in favour of one, or more than one, person (whether or not also in favour of the purchaser); and
 - (b) on the date of the nomination or direction—
 - (i) that person, or each of those persons, is closely related to the purchaser, or to each of the purchasers;
 - (ii) where there is more than one person, those persons are also closely related;
 - (iii) that person, or each of those persons, is acting on his or her own behalf; and

- (iv) that person, or each of those persons, is not a beneficial owner of any other residential property in Hong Kong.
- (3) This subsection applies to the nomination or direction if—
- (a) it is made or given in favour of one, or more than one, person (whether or not also in favour of the purchaser);
 - (b) that person, or each of those persons, is closely related to the purchaser, or to each of the purchasers; and
 - (c) where there is more than one person, those persons are also closely related.

29AC. Meaning of beneficial owner of residential property

- (1) For the purposes of this Part and head 1 in the First Schedule—

beneficial owner (實益擁有人), in relation to a residential property—

- (a) includes a purchaser under an agreement for sale of the property that is subsisting; and
 - (b) excludes a vendor under an agreement for sale of the property that is subsisting.
- (2) For subsection (1), an agreement for sale of a residential property is subsisting if—
- (a) the agreement provides for the conveyance of the property but the conveyance is not yet executed; and
 - (b) the agreement is not one that is—
 - (i) cancelled, annulled or rescinded; or
 - (ii) otherwise not performed.

- (3) For the purposes of this Part and head 1 in the First Schedule, a reference to a beneficial owner of a residential property includes a beneficial owner of part of the property.

29AD. Meaning of closely related persons

For the purposes of this Part and head 1 in the First Schedule—

- (a) 2 persons are closely related if one of them is the parent, spouse, child, brother or sister of the other; and
- (b) 3 or more persons are closely related if each of them is a parent, spouse, child, brother or sister of each of the others.

29AE. Dates of acquisition and disposal of immovable property: general provisions

- (1) For determining the stamp duty payable on an instrument under this Part (except sections 29CA and 29DA) and head 1 (except sub-heads (1AA) and (1B)) in the First Schedule—
- (a) the date a person acquires or disposes of immovable property is determined according to this section and sections 29AF and 29AG;
 - (b) if a person acquires 2 or more immovable properties on the same date, a reference to the date of acquisition by the person of one of those properties is a reference to the particular time at which that property is acquired by the person on that date;

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- (c) if a person disposes of 2 or more immovable properties on the same date, a reference to the date of disposal by the person of one of those properties is a reference to the particular time at which that property is disposed of by the person on that date;
 - (d) if a person acquires an immovable property (*subject property*) and disposes of another immovable property (*original property*) on the same date—
 - (i) a reference to the date of acquisition by the person of the subject property is a reference to the particular time at which that property is acquired by the person on that date; and
 - (ii) a reference to the date of disposal by the person of the original property is a reference to the particular time at which that property is disposed of by the person on that date; and
 - (e) a reference to the date of an instrument—
 - (i) is a reference to the date the instrument is executed; and
 - (ii) for paragraphs (b), (c) and (d), is a reference to the particular time at which the instrument is executed on that date.
- (2) The date of acquisition by a person of immovable property is as follows—
- (a) subject to sections 29AF and 29AG—
 - (i) if there is an agreement for sale that provides for the conveyance of the property to the person—the date of the agreement;

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- (ii) if more than one such agreement is made between the same parties and on the same terms in respect of the property—the date of the first of those agreements; or
 - (iii) if the agreement consists of 2 or more instruments—the date of the first of those instruments; or
 - (b) in any other case—
 - (i) the date of the conveyance under which the property is transferred to or vested in the person; or
 - (ii) if the conveyance consists of 2 or more instruments—the date of the first of those instruments.
- (3) The date of disposal by a person of immovable property is as follows—
- (a) subject to sections 29AF and 29AG—
 - (i) if there is an agreement for sale that provides for the conveyance of the property from the person—the date of the agreement;
 - (ii) if more than one such agreement is made between the same parties and on the same terms in respect of the property—the date of the first of those agreements; or
 - (iii) if the agreement consists of 2 or more instruments—the date of the first of those instruments; or
 - (b) in any other case—
 - (i) the date of the conveyance under which the property is transferred or divested from the person; or

- (ii) if the conveyance consists of 2 or more instruments—the date of the first of those instruments.

29AF. Dates of acquisition and disposal of immovable property: conveyance on sale executed in pursuance of agreement for sale

- (1) Subsections (2), (3) and (4) apply if a conveyance on sale of immovable property—
 - (a) is executed in pursuance of an agreement for sale; and
 - (b) is in favour of—
 - (i) a purchaser under the agreement (*original purchaser*); and
 - (ii) another person who is not an original purchaser (*additional transferee*).
- (2) The date of acquisition by the original purchaser of the property is as follows—
 - (a) the date of the agreement for sale mentioned in subsection (1); or
 - (b) if the agreement consists of 2 or more instruments—the date of the first of those instruments.
- (3) The date of disposal by the original purchaser of the proportion of the property to be transferred to or vested in the additional transferee is as follows—
 - (a) the date of the conveyance on sale mentioned in subsection (1); or
 - (b) if the conveyance consists of 2 or more instruments—the date of the first of those instruments.

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- (4) The date of acquisition by the additional transferee of that transferee's proportion of the property is as follows—
- (a) the date of the conveyance on sale mentioned in subsection (1); or
 - (b) if the conveyance consists of 2 or more instruments—the date of the first of those instruments.
- (5) Subsections (6), (7) and (8) apply if a conveyance on sale of immovable property—
- (a) is executed in pursuance of an agreement for sale; and
 - (b) is in favour of one or some (but not all) of the purchasers under the agreement (*original purchasers*).
- (6) For subsections (7) and (8), a person is a withdrawn purchaser if—
- (a) the person is one of the original purchasers; and
 - (b) the conveyance concerned is not executed in favour of the person.
- (7) The date of acquisition by a withdrawn purchaser of that purchaser's proportion of the property is as follows—
- (a) the date of the agreement for sale mentioned in subsection (5); or
 - (b) if the agreement consists of 2 or more instruments—the date of the first of those instruments.
- (8) The date of disposal by a withdrawn purchaser of that purchaser's proportion of the property is as follows—
- (a) the date of the conveyance on sale mentioned in subsection (5); or

- (b) if the conveyance consists of 2 or more instruments—the date of the first of those instruments.

29AG. Dates of acquisition and disposal of immovable property: more than one agreement for sale involving same immovable property

- (1) Subsections (2), (3) and (4) apply if—
 - (a) an agreement for sale (*original agreement*) is made in respect of immovable property;
 - (b) another agreement for sale (*second agreement*) is made in respect of the whole or part of the property (whether by the vendor or purchaser or both under the original agreement) before a conveyance on sale of the property or that part of the property is executed in pursuance of the original agreement; and
 - (c) under the second agreement, the purchasers are—
 - (i) a purchaser under the original agreement (*original purchaser*); and
 - (ii) another person who is not an original purchaser (*additional purchaser*).
- (2) The date of acquisition by the original purchaser of the property, or that part of the property, is as follows—
 - (a) the date of the original agreement; or
 - (b) if that agreement consists of 2 or more instruments—the date of the first of those instruments.
- (3) The date of disposal by the original purchaser of the proportion of the property to be transferred to or vested in the additional purchaser is as follows—
 - (a) the date of the second agreement; or

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- (b) if that agreement consists of 2 or more instruments—the date of the first of those instruments.
- (4) The date of acquisition by the additional purchaser of that purchaser's proportion of the property is as follows—
- (a) the date of the second agreement; or
- (b) if that agreement consists of 2 or more instruments—the date of the first of those instruments.
- (5) Subsections (6), (7) and (8) apply if—
- (a) an agreement for sale (*original agreement*) is made in respect of immovable property;
- (b) another agreement for sale (*second agreement*) is made in respect of the whole or part of the property (whether by the vendor or purchaser or both under the original agreement) before a conveyance on sale of the property or that part of the property is executed in pursuance of the original agreement; and
- (c) one or some (but not all) of the purchasers under the original agreement (*original purchasers*) is or are the purchaser or purchasers under the second agreement.
- (6) For subsections (7) and (8), a person is a withdrawn purchaser if the person—
- (a) is one of the original purchasers; but
- (b) is not a purchaser under the second agreement.
- (7) The date of acquisition by a withdrawn purchaser of that purchaser's proportion of the property is as follows—
- (a) the date of the original agreement; or

- (b) if that agreement consists of 2 or more instruments—the date of the first of those instruments.
- (8) The date of disposal by a withdrawn purchaser of that purchaser's proportion of the property is as follows—
 - (a) the date of the second agreement; or
 - (b) if that agreement consists of 2 or more instruments—the date of the first of those instruments.

29AH. Instruments involving minors or mentally incapacitated persons

For determining the stamp duty payable on an instrument under this Part (except sections 29CA, 29CB, 29DA and 29DB) and head 1 (except sub-heads (1AA), (1AAB), (1B) and (1C)) in the First Schedule, if it is shown to the satisfaction of the Collector that—

- (a) a party to the instrument is acting in the transaction as a trustee or guardian for another person; and
- (b) the other person is a Hong Kong permanent resident who is a minor or mentally incapacitated person,

the Collector must treat the other person as a party to the instrument in place of the trustee or guardian.”.

11. Part IIIA, Division 2 added

After section 29AH—

Add

“Division 2—Conveyances on Sale: General Provisions**29AI. Conveyances on sale generally chargeable with ad valorem stamp duty at Scale 1 rates**

Except as provided in sections 29AS and 29AJ to 29AR and Notes 1B and 1C to head 1(1) in the First Schedule, a conveyance on sale is chargeable with stamp duty under Scale 1 of head 1(1) in the First Schedule.

29AJ. Certain conveyances on sale of residential property to Hong Kong permanent residents chargeable with ad valorem stamp duty at Scale 2 rates

- (1) A conveyance on sale is chargeable with stamp duty under Scale 2 of head 1(1) in the First Schedule if—
 - (a) the property concerned is residential property; and
 - (b) it is shown to the satisfaction of the Collector that subsection (2) or (3) applies to the conveyance.
- (2) This subsection applies to the conveyance if, on the date of acquisition of the property—
 - (a) the transferee, or each of the transferees, under the conveyance is a Hong Kong permanent resident acting on his or her own behalf; and
 - (b) that transferee, or each of those transferees, is not a beneficial owner of any other residential property in Hong Kong.
- (3) This subsection applies to the conveyance if, on the date of acquisition of the property—
 - (a) the transferees under the conveyance consist of—
 - (i) one, or more than one, person who is a Hong Kong permanent resident; and

- (ii) one, or more than one, person who is not a Hong Kong permanent resident;
- (b) those transferees are closely related;
- (c) each of them is acting on his or her own behalf; and
- (d) each of them is not a beneficial owner of any other residential property in Hong Kong.

29AK. Certain conveyances on sale of residential property together with car parking space to Hong Kong permanent residents chargeable with ad valorem stamp duty at Scale 2 rates

- (1) A conveyance on sale is chargeable with stamp duty under Scale 2 of head 1(1) in the First Schedule if—
 - (a) the properties concerned are residential property and a car parking space permitted for the parking of 1 motor vehicle; and
 - (b) it is shown to the satisfaction of the Collector that subsection (2) applies to the conveyance.
- (2) This subsection applies to the conveyance if, on the date of acquisition of the properties—
 - (a) the transferee, or each of the transferees, under the conveyance is a Hong Kong permanent resident acting on his or her own behalf; and
 - (b) that transferee, or each of those transferees, is neither a beneficial owner of any other residential property, nor a beneficial owner of any other car parking space, in Hong Kong.
- (3) For subsection (1)(a), a car parking space is permitted for the parking of 1 motor vehicle unless any of the following provides that the parking space may be used, at any time during the term of the Government lease in respect of the parking space or during the term of the Government lease that has been agreed for in

respect of the parking space (as is appropriate), for the parking of more than 1 motor vehicle—

- (a) a Government lease or an agreement for a Government lease;
- (b) a deed of mutual covenant, within the meaning of section 2 of the Building Management Ordinance (Cap. 344);
- (c) an occupation permit issued under section 21 of the Buildings Ordinance (Cap. 123);
- (d) any other instrument which the Collector is satisfied effectively restricts the permitted user of the parking space.

29AL. Certain conveyances on sale of residential property between closely related persons chargeable with ad valorem stamp duty at Scale 2 rates

- (1) A conveyance on sale is chargeable with stamp duty under Scale 2 of head 1(1) in the First Schedule if—
 - (a) the property concerned is residential property; and
 - (b) it is shown to the satisfaction of the Collector that subsection (2) applies to the conveyance.
- (2) This subsection applies to the conveyance if, on the date of acquisition of the property—
 - (a) the transferee, or each of the transferees, under the conveyance is closely related to the transferor, or to each of the transferors, under the conveyance;
 - (b) where there is more than one transferee under the conveyance, the transferees are also closely related; and
 - (c) that transferee, or each of those transferees, is acting on his or her own behalf.

- (3) For the purpose of subsection (2)(a), if a transferor is acting in the transaction as a trustee for another person, that other person is treated as the transferor in place of the trustee.

29AM. Conveyances on sale of property for replacing other property disposed of under certain Ordinances chargeable with ad valorem stamp duty at Scale 2 rates

- (1) A conveyance on sale is chargeable with stamp duty under Scale 2 of head 1(1) in the First Schedule if it is shown to the satisfaction of the Collector that—
- (a) the transferee under the conveyance is acting on the transferee's own behalf;
 - (b) the property concerned (*replacement property*) is acquired by the transferee to replace another property (*original property*);
 - (c) the original property—
 - (i) was owned by the transferee alone or jointly with any other person or persons; and
 - (ii) falls within subsection (2); and
 - (d) subsection (3) applies to the replacement property.
- (2) The original property falls within this subsection if it has been—
- (a) purchased or otherwise acquired by the Urban Renewal Authority for the purposes of any of its projects as defined by section 2 of the Urban Renewal Authority Ordinance (Cap. 563);
 - (b) resumed under an order made under section 3 of the Lands Resumption Ordinance (Cap. 124) or purchased by agreement under section 4A of that Ordinance;

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- (c) sold pursuant to an order for sale made by the Lands Tribunal under section 4(1)(b)(i) of the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545);
 - (d) resumed under an order made under section 4(1) of the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276);
 - (e) resumed under an order made under section 13(1) of the Roads (Works, Use and Compensation) Ordinance (Cap. 370);
 - (f) resumed under an order made under section 16 or 28(1) of the Railways Ordinance (Cap. 519);
 - (g) acquired under an acquisition order made under section 3(1) or (2) of the Land Acquisition (Possessory Title) Ordinance (Cap. 130); or
 - (h) resumed under an order made under section 37(2) of the Land Drainage Ordinance (Cap. 446).
- (3) This subsection applies to the replacement property if—
- (a) the date of disposal of the original property under subsection (2) is earlier than the date of acquisition by the transferee of the replacement property; and
 - (b) the original property and the replacement property are both residential properties, or both non-residential properties.
- (4) Subsection (1) does not apply to a conveyance on sale under which a replacement property is acquired by a transferee to replace an original property if—
- (a) the transferee has acquired another replacement property to replace the original property under another instrument; and

- (b) stamp duty has been charged on that other instrument according to Scale 2 of head 1(1), or Scale 2 of head 1(1A), in the First Schedule because of the operation of subsection (1) or section 29BE(1).
- (5) If an original property was owned by more than one person, subsection (1) applies to each owner in relation to 1 replacement property acquired by the owner, regardless of whether or not the replacement property is acquired—
- (a) by the owner alone; or
 - (b) by the owner jointly with—
 - (i) another owner of the original property; or
 - (ii) any other person.

29AN. Other conveyances on sale chargeable with ad valorem stamp duty at Scale 2 rates

A conveyance on sale is chargeable with stamp duty under Scale 2 of head 1(1) in the First Schedule if it is shown to the satisfaction of the Collector that—

- (a) the conveyance is made pursuant to a decree or order of any court;
- (b) the conveyance is a decree or order of any court by which the property concerned is transferred to or vested in the transferee; or
- (c) under the conveyance, a mortgaged property is transferred to, or vested in, its mortgagee that is a financial institution within the meaning of section 2 of the Inland Revenue Ordinance (Cap. 112), or a receiver appointed by the mortgagee.

29AO. Certain instruments effecting exchange between residential property and non-residential property chargeable with ad valorem stamp duty at Scale 2 rates

- (1) An instrument falls within this subsection if—
 - (a) the instrument effects the exchange of a residential property for a non-residential property; and
 - (b) consideration is paid or given by the transferee for equality.
- (2) An instrument that falls within subsection (1) is chargeable with stamp duty as a conveyance on sale under Scale 2 of head 1(1) in the First Schedule by reference to the consideration mentioned in subsection (1) if it is shown to the satisfaction of the Collector that subsection (3) or (4) applies to the instrument.
- (3) This subsection applies to the instrument if, on the date of the instrument—
 - (a) the transferee, or each of the transferees, under the instrument is a Hong Kong permanent resident acting on his or her own behalf; and
 - (b) that transferee, or each of those transferees, is not a beneficial owner of any other residential property in Hong Kong.
- (4) This subsection applies to the instrument if, on the date of the instrument—
 - (a) the transferee, or each of the transferees, under the instrument is closely related to the transferor, or to each of the transferors, under the instrument;
 - (b) where there is more than one transferee under the instrument, the transferees are also closely related; and
 - (c) that transferee, or each of those transferees, is acting on his or her own behalf.

- (5) For the purposes of this section, if a person transfers a residential property to another person under an instrument that falls within subsection (1)—
 - (a) the former is the transferor under the instrument; and
 - (b) the latter is the transferee under the instrument.

29AP. Certain instruments effecting exchange between residential properties chargeable with ad valorem stamp duty at Scale 2 rates

- (1) An instrument falls within this subsection if—
 - (a) the instrument effects the exchange of a residential property for another residential property; and
 - (b) consideration is paid or given for equality.
- (2) An instrument that falls within subsection (1) is chargeable with stamp duty as a conveyance on sale under Scale 2 of head 1(1) in the First Schedule by reference to the consideration mentioned in subsection (1) if it is shown to the satisfaction of the Collector that subsection (3) or (4) applies to the instrument.
- (3) This subsection applies to the instrument if, on the date of the instrument—
 - (a) each party to the instrument is a Hong Kong permanent resident acting on his or her own behalf; and
 - (b) each of them is not a beneficial owner of any other residential property in Hong Kong.
- (4) This subsection applies to the instrument if, on the date of the instrument—
 - (a) all parties to the instrument are closely related; and

(b) each of them is acting on his or her own behalf.

29AQ. Certain conveyances on sale of residential property involving additional closely related persons chargeable with ad valorem stamp duty at Scale 2 rates

- (1) Except as provided in section 29D(6)(c)(ii) and (7), this section applies to a conveyance on sale if—
 - (a) the property concerned is residential property;
 - (b) the conveyance is executed in pursuance of an agreement for sale; and
 - (c) the conveyance is in favour of—
 - (i) a purchaser under the agreement (*original purchaser*); and
 - (ii) another person who falls within subsection (2).
- (2) A person falls within this subsection if the person—
 - (a) is not an original purchaser; and
 - (b) is, on the date of the conveyance, closely related to the original purchaser.
- (3) If the agreement for sale is duly stamped, or stamped under section 5(1), 13(2) or 18E(1) (whether before or after the execution of the conveyance on sale), the conveyance is chargeable with stamp duty under Scale 2 of head 1(1) in the First Schedule by reference to the consideration for the conveyance, less a fraction of the stamp duty representing the proportion of the property that is vested in the original purchaser under the conveyance.
- (4) For the purposes of subsection (3), joint tenants are treated as having equal undivided shares in the property concerned.

- (5) If the agreement for sale is not duly stamped, or not stamped under section 5(1), 13(2) or 18E(1), the Collector may refuse to stamp the conveyance.

29AR. Certain conveyances on sale of residential property involving withdrawal of closely related persons chargeable with ad valorem stamp duty at Scale 2 rates

- (1) Except as provided in section 29D(6)(c)(ii) and (7), this section applies to a conveyance on sale if—
- (a) the property concerned is residential property;
 - (b) the conveyance is executed in pursuance of an agreement for sale;
 - (c) the conveyance is in favour of one or some (but not all) of the purchasers under the agreement; and
 - (d) on the date of the conveyance, the transferee, or each of the transferees, is closely related to the withdrawn purchaser, or to each of the withdrawn purchasers.
- (2) If the agreement for sale is duly stamped, or stamped under section 5(1), 13(2) or 18E(1) (whether before or after the execution of the conveyance on sale), the conveyance is chargeable with stamp duty under Scale 2 of head 1(1) in the First Schedule by reference to the consideration for the conveyance, less a fraction of the stamp duty representing the proportion of the property that was acquired by the transferee or transferees under the agreement.
- (3) For the purposes of subsection (2), an agreement that provides for a conveyance to purchasers as joint tenants is treated as an agreement to convey the property to those purchasers in equal undivided shares.

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- (4) If the agreement for sale is not duly stamped, or not stamped under section 5(1), 13(2) or 18E(1), the Collector may refuse to stamp the conveyance.
- (5) In this section—
- (a) a person is a transferee if—
 - (i) the person is one of the purchasers under the agreement; and
 - (ii) the conveyance is executed in favour of the person; and
 - (b) a person is a withdrawn purchaser if—
 - (i) the person is one of the purchasers under the agreement; and
 - (ii) the conveyance is not executed in favour of the person.

29AS. Certain conveyances on sale of residential property related to Public Rental Housing Flats under Tenants Purchase Scheme to tenants or authorized occupants chargeable with ad valorem stamp duty at Scale 2 rates

- (1) A conveyance on sale is chargeable with stamp duty under Scale 2 of head 1(1) in the First Schedule if—
- (a) the property concerned is residential property;
 - (b) the acquisition of the property is made under the Tenants Purchase Scheme of the Housing Authority; and
 - (c) it is shown to the satisfaction of the Collector that subsection (2) applies to the conveyance.
- (2) This subsection applies to the conveyance if, on the date of acquisition of the property—

- (a) the transferee, or each of the transferees, under the conveyance is a tenant or an authorized occupant of the Housing Authority in respect of the property acting on his or her own behalf; and
- (b) that transferee, or each of those transferees, is not a beneficial owner of any other residential property in Hong Kong.”.

12. Part IIIA, Division 3 heading added

Before section 29B—

Add

“Division 3—Agreements for Sale”.

13. Section 29B amended (duty to execute agreement for sale)

Section 29B(7)—

Repeal

“, within the meaning of section 29D(6)(d)”.

14. Sections 29BA to 29BK added

After section 29B—

Add

“29BA. Agreements for sale generally chargeable with ad valorem stamp duty at Scale 1 rates

Except as provided in sections 29BK and 29BB to 29BJ and Note 1A to head 1(1A) in the First Schedule, an agreement for sale is chargeable with stamp duty under Scale 1 of head 1(1A) in the First Schedule.

29BB. Certain agreements for sale of residential property to Hong Kong permanent residents chargeable with ad valorem stamp duty at Scale 2 rates

- (1) An agreement for sale is chargeable with stamp duty under Scale 2 of head 1(1A) in the First Schedule if—
 - (a) the property concerned is residential property; and
 - (b) it is shown to the satisfaction of the Collector that subsection (2) or (3) applies to the agreement.
- (2) This subsection applies to the agreement if, on the date of acquisition of the property—
 - (a) the purchaser, or each of the purchasers, under the agreement is a Hong Kong permanent resident acting on his or her own behalf; and
 - (b) that purchaser, or each of those purchasers, is not a beneficial owner of any other residential property in Hong Kong.
- (3) This subsection applies to the agreement if, on the date of acquisition of the property—
 - (a) the purchasers under the agreement consist of—
 - (i) one, or more than one, person who is a Hong Kong permanent resident; and
 - (ii) one, or more than one, person who is not a Hong Kong permanent resident;
 - (b) those purchasers are closely related;
 - (c) each of them is acting on his or her own behalf; and
 - (d) each of them is not a beneficial owner of any other residential property in Hong Kong.

29BC. Certain agreements for sale of residential property together with car parking space to Hong Kong permanent residents chargeable with ad valorem stamp duty at Scale 2 rates

- (1) An agreement for sale is chargeable with stamp duty under Scale 2 of head 1(1A) in the First Schedule if—
 - (a) the properties concerned are residential property and a car parking space permitted for the parking of 1 motor vehicle; and
 - (b) it is shown to the satisfaction of the Collector that subsection (2) applies to the agreement.
- (2) This subsection applies to the agreement if, on the date of acquisition of the properties—
 - (a) the purchaser, or each of the purchasers, under the agreement is a Hong Kong permanent resident acting on his or her own behalf; and
 - (b) that purchaser, or each of those purchasers, is neither a beneficial owner of any other residential property, nor a beneficial owner of any other car parking space, in Hong Kong.
- (3) For subsection (1)(a), a car parking space is permitted for the parking of 1 motor vehicle unless any of the following provides that the parking space may be used, at any time during the term of the Government lease in respect of the parking space or during the term of the Government lease that has been agreed for in respect of the parking space (as is appropriate), for the parking of more than 1 motor vehicle—
 - (a) a Government lease or an agreement for a Government lease;
 - (b) a deed of mutual covenant, within the meaning of section 2 of the Building Management Ordinance (Cap. 344);

- (c) an occupation permit issued under section 21 of the Buildings Ordinance (Cap. 123);
- (d) any other instrument which the Collector is satisfied effectively restricts the permitted user of the parking space.

29BD. Certain agreements for sale of residential property between closely related persons chargeable with ad valorem stamp duty at Scale 2 rates

- (1) An agreement for sale is chargeable with stamp duty under Scale 2 of head 1(1A) in the First Schedule if—
 - (a) the property concerned is residential property; and
 - (b) it is shown to the satisfaction of the Collector that subsection (2) or (4) applies to the agreement.
- (2) This subsection applies to the agreement if, on the date of acquisition of the property—
 - (a) the purchaser, or each of the purchasers, under the agreement is closely related to the vendor, or to each of the vendors, under the agreement;
 - (b) where there is more than one purchaser under the agreement, the purchasers are also closely related; and
 - (c) that purchaser, or each of those purchasers, is acting on his or her own behalf.
- (3) For the purpose of subsection (2)(a), if a vendor is acting in the transaction as a trustee for another person, that other person is treated as the vendor in place of the trustee.
- (4) This subsection applies to the agreement if—

- (a) the agreement is an instrument in which a purchaser under another agreement for sale of the property concerned (*original agreement*) makes a nomination, or gives a direction;
- (b) that nomination or direction authorizes another person to execute a conveyance of that property in favour of one, or more than one, third party (whether or not also in favour of the purchaser); and
- (c) on the date of that nomination or direction—
 - (i) the third party, or each of those parties, is closely related to the purchaser, or to each of the purchasers;
 - (ii) where there is more than one purchaser under the original agreement, the purchasers are also closely related; and
 - (iii) the third party, or each of those parties, is acting on his or her own behalf.

29BE. Agreements for sale of property for replacing other property disposed of under certain Ordinances chargeable with ad valorem stamp duty at Scale 2 rates

- (1) An agreement for sale is chargeable with stamp duty under Scale 2 of head 1(1A) in the First Schedule if it is shown to the satisfaction of the Collector that—
 - (a) the purchaser under the agreement is acting on the purchaser's own behalf;
 - (b) the property concerned (*replacement property*) is acquired by the purchaser to replace another property (*original property*);
 - (c) the original property—
 - (i) was owned by the purchaser alone or jointly with any other person or persons; and

- (ii) falls within subsection (2); and
 - (d) subsection (3) applies to the replacement property.
- (2) The original property falls within this subsection if it has been—
- (a) purchased or otherwise acquired by the Urban Renewal Authority for the purposes of any of its projects as defined by section 2 of the Urban Renewal Authority Ordinance (Cap. 563);
 - (b) resumed under an order made under section 3 of the Lands Resumption Ordinance (Cap. 124) or purchased by agreement under section 4A of that Ordinance;
 - (c) sold pursuant to an order for sale made by the Lands Tribunal under section 4(1)(b)(i) of the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545);
 - (d) resumed under an order made under section 4(1) of the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276);
 - (e) resumed under an order made under section 13(1) of the Roads (Works, Use and Compensation) Ordinance (Cap. 370);
 - (f) resumed under an order made under section 16 or 28(1) of the Railways Ordinance (Cap. 519);
 - (g) acquired under an acquisition order made under section 3(1) or (2) of the Land Acquisition (Possessory Title) Ordinance (Cap. 130); or
 - (h) resumed under an order made under section 37(2) of the Land Drainage Ordinance (Cap. 446).
- (3) This subsection applies to the replacement property if—

-
- (a) the date of disposal of the original property under subsection (2) is earlier than the date of acquisition by the purchaser of the replacement property; and
 - (b) the original property and the replacement property are both residential properties, or both non-residential properties.
- (4) Subsection (1) does not apply to an agreement for sale under which a replacement property is acquired by a purchaser to replace an original property if—
- (a) the purchaser has acquired another replacement property to replace the original property under another instrument; and
 - (b) stamp duty has been charged on that other instrument according to Scale 2 of head 1(1), or Scale 2 of head 1(1A), in the First Schedule because of the operation of subsection (1) or section 29AM(1).
- (5) If an original property was owned by more than one person, subsection (1) applies to each owner in relation to 1 replacement property acquired by the owner, regardless of whether or not the replacement property is acquired—
- (a) by the owner alone; or
 - (b) by the owner jointly with—
 - (i) another owner of the original property; or
 - (ii) any other person.

29BF. Agreements for sale made pursuant to court orders chargeable with ad valorem stamp duty at Scale 2 rates

An agreement for sale is chargeable with stamp duty under Scale 2 of head 1(1A) in the First Schedule if it is shown to the satisfaction of the Collector that the agreement is made pursuant to a decree or order of any court.

29BG. Certain agreements for exchange between residential property and non-residential property chargeable with ad valorem stamp duty at Scale 2 rates

- (1) An agreement falls within this subsection if—
 - (a) the agreement provides for the exchange of a residential property for a non-residential property; and
 - (b) consideration is paid or given, or agreed to be paid or given, by the purchaser under the agreement for equality.
- (2) An agreement that falls within subsection (1) is chargeable with stamp duty as an agreement for sale under Scale 2 of head 1(1A) in the First Schedule by reference to the consideration mentioned in subsection (1) if it is shown to the satisfaction of the Collector that subsection (3) or (4) applies to the agreement.
- (3) This subsection applies to the agreement if, on the date of the agreement—
 - (a) the purchaser, or each of the purchasers, under the agreement is a Hong Kong permanent resident acting on his or her own behalf; and
 - (b) that purchaser, or each of those purchasers, is not a beneficial owner of any other residential property in Hong Kong.
- (4) This subsection applies to the agreement if, on the date of the agreement—
 - (a) the purchaser, or each of the purchasers, under the agreement is closely related to the vendor, or to each of the vendors, under the agreement;
 - (b) where there is more than one purchaser under the agreement, the purchasers are also closely related; and

- (c) that purchaser, or each of those purchasers, is acting on his or her own behalf.
- (5) For the purposes of this section, if an agreement that falls within subsection (1) provides that a person is to transfer a residential property to another person—
 - (a) the former is the vendor under the agreement; and
 - (b) the latter is the purchaser under the agreement.

29BH. Certain agreements for exchange between residential properties chargeable with ad valorem stamp duty at Scale 2 rates

- (1) An agreement falls within this subsection if—
 - (a) the agreement provides for the exchange of a residential property for another residential property; and
 - (b) consideration is paid or given, or agreed to be paid or given, for equality.
- (2) An agreement that falls within subsection (1) is chargeable with stamp duty as an agreement for sale under Scale 2 of head 1(1A) in the First Schedule by reference to the consideration mentioned in subsection (1) if it is shown to the satisfaction of the Collector that subsection (3) or (4) applies to the agreement.
- (3) This subsection applies to the agreement if, on the date of the agreement—
 - (a) each party to the agreement is a Hong Kong permanent resident acting on his or her own behalf; and
 - (b) each of them is not a beneficial owner of any other residential property in Hong Kong.
- (4) This subsection applies to the agreement if, on the date of the agreement—

- (a) all parties to the agreement are closely related; and
- (b) each of them is acting on his or her own behalf.

29BI. Certain agreements for sale of residential property involving additional closely related persons chargeable with ad valorem stamp duty at Scale 2 rates

- (1) Except as provided in Note 5 to head 1(1A) in the First Schedule, this section applies if—
 - (a) an agreement for sale (*original agreement*) is made in respect of residential property;
 - (b) another agreement for sale (*second agreement*) is made in respect of the whole or part of the property (whether by the vendor or purchaser or both under the original agreement) before a conveyance on sale of the property or that part of the property is executed in pursuance of the original agreement; and
 - (c) under the second agreement, the purchasers are—
 - (i) a purchaser under the original agreement (*original purchaser*); and
 - (ii) another person who falls within subsection (2).
- (2) A person falls within this subsection if the person—
 - (a) is not an original purchaser; and
 - (b) is, on the date of the second agreement, closely related to the original purchaser.
- (3) If the original agreement is duly stamped, or stamped under section 5(1), 13(2) or 18E(1) (whether before or after the second agreement is made), the second agreement is chargeable with stamp duty under Scale 2 of head 1(1A) in the First Schedule by reference to the

consideration for the second agreement, less a fraction of the stamp duty representing the proportion of the property that is acquired by the original purchaser under the second agreement.

- (4) For the purposes of subsection (3), joint tenants are treated as having equal undivided shares in the property concerned.
- (5) If the original agreement is not duly stamped, or not stamped under section 5(1), 13(2) or 18E(1), the Collector may refuse to stamp the second agreement.

29BJ. Certain agreements for sale of residential property involving withdrawal of closely related persons chargeable with ad valorem stamp duty at Scale 2 rates

- (1) Except as provided in Note 5 to head 1(1A) in the First Schedule, this section applies if—
 - (a) an agreement for sale (*original agreement*) is made in respect of residential property;
 - (b) another agreement for sale (*second agreement*) is made in respect of the whole or part of the property (whether by the vendor or purchaser or both under the original agreement) before a conveyance on sale of the property or that part of the property is executed in pursuance of the original agreement;
 - (c) one or some (but not all) of the purchasers under the original agreement (*original purchasers*) is or are the purchaser or purchasers under the second agreement (*remaining purchaser or purchasers*); and
 - (d) on the date of the second agreement, the remaining purchaser, or each of the remaining purchasers, is closely related to the withdrawn purchaser, or to each of the withdrawn purchasers.

- (2) If the original agreement is duly stamped, or stamped under section 5(1), 13(2) or 18E(1) (whether before or after the second agreement is made), the second agreement is chargeable with stamp duty under Scale 2 of head 1(1A) in the First Schedule by reference to the consideration for the second agreement, less a fraction of the stamp duty representing the proportion of the property that was acquired by the remaining purchaser or purchasers under the original agreement.
- (3) For the purposes of subsection (2), an agreement that provides for a conveyance to purchasers as joint tenants is treated as an agreement to convey the property to those purchasers in equal undivided shares.
- (4) If the original agreement is not duly stamped, or not stamped under section 5(1), 13(2) or 18E(1), the Collector may refuse to stamp the second agreement.
- (5) In this section, a withdrawn purchaser is a person who—
 - (a) is one of the original purchasers; but
 - (b) is not a remaining purchaser.

29BK. Certain agreements for sale of residential property related to Public Rental Housing Flats under Tenants Purchase Scheme to tenants or authorized occupants chargeable with ad valorem stamp duty at Scale 2 rates

- (1) An agreement for sale is chargeable with stamp duty under Scale 2 of head 1(1A) in the First Schedule if—
 - (a) the property concerned is residential property;
 - (b) the acquisition of the property is made under the Tenants Purchase Scheme of the Housing Authority; and
 - (c) it is shown to the satisfaction of the Collector that subsection (2) applies to the agreement.

- (2) This subsection applies to the agreement if, on the date of acquisition of the property—
- (a) the purchaser, or each of the purchasers, under the agreement is a tenant or an authorized occupant of the Housing Authority in respect of the property acting on his or her own behalf; and
 - (b) that purchaser, or each of those purchasers, is not a beneficial owner of any other residential property in Hong Kong.”.

15. Section 29C amended (chargeable agreements for sale)

- (1) Section 29C, heading—

Repeal

“Chargeable agreements for sale”

Substitute

“General provisions on chargeable agreements for sale”.

- (2) Section 29C(5AA)(a), before “another agreement for sale”—

Add

“except as provided in subsection (5AB),”.

- (3) Section 29C(5AA)(a)—

Repeal

everything after “third party”

Substitute

“; or”.

- (4) After section 29C(5AA)—

Add

- “(5AB) A nomination or direction is excluded from subsection (5AA)(a) if—

-
- (a) it is made or given in favour of a person who is to be a trustee for the purchaser mentioned in that subsection in respect of the property concerned or part of it;
 - (b) in so far as it relates to head 1(1A) in the First Schedule—
 - (i) the property is residential property; and
 - (ii) it is shown to the satisfaction of the Collector that subsection (5AC) applies to the nomination or direction; or
 - (c) in so far as it relates to head 1(1B) and (1C) in the First Schedule—
 - (i) the property is residential property; and
 - (ii) subsection (5AD) applies to the nomination or direction.
- (5AC) This subsection applies to the nomination or direction if—
- (a) it is made or given in favour of one, or more than one, person (whether or not also in favour of the purchaser); and
 - (b) on the date of the nomination or direction—
 - (i) that person, or each of those persons, is closely related to the purchaser, or to each of the purchasers;
 - (ii) where there is more than one person, those persons are also closely related;
 - (iii) that person, or each of those persons, is acting on his or her own behalf; and
 - (iv) that person, or each of those persons, is not a beneficial owner of any other residential property in Hong Kong.

- (5AD) This subsection applies to the nomination or direction if—
- (a) it is made or given in favour of one, or more than one, person (whether or not also in favour of the purchaser);
 - (b) that person, or each of those persons, is closely related to the purchaser, or to each of the purchasers; and
 - (c) where there is more than one person, those persons are also closely related.”.

- (5) Section 29C(10)—

Repeal

“section 29F”

Substitute

“sections 29F, 29BG and 29BH”.

16. **Section 29CB amended (further provisions on buyer’s stamp duty chargeable on certain agreements for sale)**

Section 29CB—

Repeal subsection (13).

17. **Part IIIA, Division 4 heading added**

Before section 29D—

Add

“Division 4—Conveyances on Sale: Further Provisions”.

18. **Section 29D amended (conveyances on sale of residential property)**

- (1) Section 29D, heading—

Repeal

“Conveyances on sale of residential property”

Substitute

“Conveyances on sale and agreements for sale involving same immovable property”.

- (2) Section 29D(1)—

Repeal

“residential”

Substitute

“immovable”.

- (3) Section 29D(2)—

Repeal

“residential”

Substitute

“immovable”.

- (4) Section 29D(3)—

Repeal

“of residential”

Substitute

“of immovable”.

- (5) Section 29D(3)—

Repeal

“the residential”

Substitute

“the”.

- (6) Section 29D(4)—

Repeal

“of residential”

Substitute

“of immovable”.

- (7) Section 29D(4)(a)—

Repeal

“residential”.

- (8) Section 29D(5)—

Repeal

“of residential”

Substitute

“of immovable”.

- (9) Section 29D(5)(a)—

Repeal

“residential”.

- (10) Section 29D(6)(c)(ii), before “is in favour of”—

Add

“subject to subsection (7),”.

- (11) Section 29D(6)(c)(ii)—

Repeal

everything after “and no other person;”.

- (12) After section 29D(6)—

Add

“(7) For subsection (6)(c)(ii), if the property concerned is residential property—

- (a) for the purposes of head 1(1) in the First Schedule, 2 or more persons are treated as the same person if, on the date of the conveyance concerned—

- (i) they are closely related;
 - (ii) each of them is acting on his or her own behalf; and
 - (iii) the person, or each of the persons, in whose favour the conveyance is executed is not a beneficial owner of any other residential property in Hong Kong; and
- (b) for the purposes of head 1(1AA) and (1AAB) in the First Schedule, 2 or more persons are treated as the same person if they are closely related.
- (8) Despite section 71(3) and (4), a reference in subsection (3) to an agreement for sale includes an agreement for sale of non-residential property made before 23 February 2013.”.

19. Section 29DA amended (further provisions on special stamp duty chargeable on certain conveyances on sale)

Section 29DA—

Repeal subsection (15).

20. Section 29DB amended (further provisions on buyer’s stamp duty chargeable on certain conveyances on sale)

Section 29DB—

Repeal subsections (15), (16) and (17).

21. Part IIIA, Division 5 heading added

Before section 29DD—

Add

“Division 5—Refund of Stamp Duty in case of Redevelopment”.

22. Section 29DE added

After section 29DD—

Add**“29DE. Partial refund of ad valorem stamp duty in case of redevelopment**

(1) In this section—

applicable instrument (適用文書) means an instrument on which stamp duty had been paid according to Scale 1 of head 1(1), or Scale 1 of head 1(1A), in the First Schedule;

specified amount (指明款項) means—

- (a) for an applicable instrument on which stamp duty had been paid according to Scale 1 of head 1(1) in the First Schedule—an amount equal to the difference between the stamp duty paid and the stamp duty that would have been payable on that instrument if it were chargeable under Scale 2 of head 1(1) in the First Schedule; or
 - (b) for an applicable instrument on which stamp duty had been paid according to Scale 1 of head 1(1A) in the First Schedule—an amount equal to the difference between the stamp duty paid and the stamp duty that would have been payable on that instrument if it were chargeable under Scale 2 of head 1(1A) in the First Schedule.
- (2) Subject to subsection (4), if—
- (a) a person has paid stamp duty on an applicable instrument according to Scale 1 of head 1(1), or Scale 1 of head 1(1A), in the First Schedule; and
 - (b) the conditions specified in subsection (3) are satisfied in relation to the immovable property concerned,

the Collector may, on an application made by the person, refund to the person the specified amount.

- (3) The conditions are—
- (a) the immovable property concerned consisted, or formed part, of a lot (*the lot*);
 - (b) the person—
 - (i) alone or jointly with an associated body corporate within the meaning of section 45(2), became the owner of the lot; or
 - (ii) after becoming the owner as mentioned in subparagraph (i), was, alone or jointly with the associated body corporate, granted a new lot (*the new lot*) by the Government consequent on either or both of the following—
 - (A) the surrender to the Government of the lot (wholly or partly and whether or not together with any other lot);
 - (B) the acquisition by the Government through purchase by agreement under section 4A of the Lands Resumption Ordinance (Cap. 124), or resumption by the Government under an order made under section 3 of that Ordinance, of the lot (wholly or partly and whether or not together with any other lot); and
 - (c) the person, alone or jointly with the associated body corporate—
 - (i) has—
 - (A) demolished or caused to be demolished all buildings (if any) existing on the lot or the new lot, other than a building or part of a building the demolition of

which is prohibited under any Ordinance; and

(B) obtained approval of plans and details prescribed in regulation 8(1)(a), (b), (f), (g), (h), (j), (k) and (m) of the Building (Administration) Regulations (Cap. 123 sub. leg. A) in respect of building works to be carried out on the lot or the new lot (whether or not together with any other lot) from the Building Authority under the Buildings Ordinance (Cap. 123); or

(ii) has obtained consent to commence any foundation works for the lot or the new lot (whether or not together with any other lot) from the Building Authority under the Buildings Ordinance (Cap. 123).

(4) If—

- (a) immovable property was acquired by a body corporate (*first body corporate*) under an instrument on which it had paid stamp duty according to Scale 1 of head 1(1), or Scale 1 of head 1(1A), in the First Schedule;
- (b) the property was subsequently transferred by the first body corporate to another body corporate (*second body corporate*) directly or through one, or more than one, other body corporate; and
- (c) the instrument or instruments effecting the transfer of the property to the second body corporate were, by virtue of section 45, not chargeable with stamp duty,

the second body corporate is regarded, for the purposes of subsection (2)(a), as the person who has paid the stamp duty on the instrument as described in paragraph (a).

(5) For the purposes of this section, in relation to a lot that has been divided into undivided shares, a person becomes the owner of the lot when the person becomes the legal owner of all the undivided shares in the lot.

(6) In this section—

lot (地段) has the meaning given by section 2(1) of the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545).’.

23. Part IIIA, Division 6 added

Before section 29E—

Add

“Division 6—Further Provisions on Ad Valorem Stamp Duty

29DF. Partial refund of ad valorem stamp duty on disposal of residential property in certain circumstances

(1) In this section—

applicable instrument (適用文書) means an instrument—

(a) under which a residential property (whether or not together with a car parking space permitted for the parking of 1 motor vehicle) is acquired; and

(b) on which stamp duty had been paid according to Scale 1 of head 1(1), or Scale 1 of head 1(1A), in the First Schedule;

original property (原物業), in relation to a person who acquires a subject property under an applicable instrument, means another residential property (whether or not together with a car parking space permitted for the parking of 1 motor vehicle) of which

the person is a beneficial owner on the date of that acquisition;

specified amount (指明款項) means—

- (a) for an applicable instrument on which stamp duty had been paid according to Scale 1 of head 1(1) in the First Schedule—an amount equal to the difference between the stamp duty paid and the stamp duty that would have been payable on that instrument if it were chargeable under Scale 2 of head 1(1) in the First Schedule in accordance with Division 2; or
- (b) for an applicable instrument on which stamp duty had been paid according to Scale 1 of head 1(1A) in the First Schedule—an amount equal to the difference between the stamp duty paid and the stamp duty that would have been payable on that instrument if it were chargeable under Scale 2 of head 1(1A) in the First Schedule in accordance with Division 3;

subject property (標的物業) means the residential property, or the residential property and car parking space, acquired under an applicable instrument.

- (2) The Collector may, on an application made by a person (**applicant**) who had paid stamp duty on an applicable instrument, refund to the applicant the specified amount if—
 - (a) subsection (3) or (4) applies to the disposal of an original property of the applicant; and
 - (b) had the original property been disposed of before the subject property was acquired, the applicable instrument would have been chargeable with stamp duty under Scale 2 of head 1(1), or Scale 2 of head 1(1A), in the First Schedule.

-
- (3) This subsection applies to the disposal of an original property of the applicant if—
- (a) it is shown to the satisfaction of the Collector that the original property is disposed of by the applicant under an agreement for sale that is made within the period specified in subsection (5);
 - (b) it is shown to the satisfaction of the Collector that the original property is transferred or divested from the applicant under a conveyance on sale executed in conformity with that agreement; and
 - (c) the application for refund is made by the applicant not later than 2 years after the date of the applicable instrument, or not later than 2 months after the date of the conveyance on sale under which the original property is transferred or divested, whichever is the later.
- (4) This subsection applies to the disposal of an original property of the applicant if—
- (a) it is shown to the satisfaction of the Collector that the original property is transferred or divested from the applicant under a conveyance on sale within the period specified in subsection (5); and
 - (b) the application for refund is made by the applicant not later than 2 years after the date of the applicable instrument, or not later than 2 months after the date of the conveyance on sale under which the original property is transferred or divested, whichever is the later.
- (5) For subsections (3)(a) and (4)(a), the following period is specified—

-
- (a) if the applicable instrument is a conveyance on sale—6 months after the date of that instrument;
or
 - (b) if the applicable instrument is an agreement for sale—6 months after the date of the conveyance on sale executed in conformity with the agreement for sale.
- (6) For the definitions of *applicable instrument* and *original property* in subsection (1), a car parking space is permitted for the parking of 1 motor vehicle unless any of the following provides that the parking space may be used, at any time during the term of the Government lease in respect of the parking space or during the term of the Government lease that has been agreed for in respect of the parking space (as is appropriate), for the parking of more than 1 motor vehicle—
- (a) a Government lease or an agreement for a Government lease;
 - (b) a deed of mutual covenant, within the meaning of section 2 of the Building Management Ordinance (Cap. 344);
 - (c) an occupation permit issued under section 21 of the Buildings Ordinance (Cap. 123);
 - (d) any other instrument which the Collector is satisfied effectively restricts the permitted user of the parking space.

29DG. Further ad valorem stamp duty payable on failure to complete disposal of residential property in certain circumstances

(1) In this section—

applicable instrument (適用文書) means an instrument—

- (a) under which a residential property (whether or not together with a car parking space permitted for the parking of 1 motor vehicle) is acquired; and
- (b) on which stamp duty had been paid—
 - (i) according to Scale 2 of head 1(1) in the First Schedule because of the operation of section 29AJ, 29AK, 29AO(1) to (3), or 29AP(1) to (3); or
 - (ii) according to Scale 2 of head 1(1A) in the First Schedule because of the operation of section 29BB, 29BC, 29BG(1) to (3), or 29BH(1) to (3);

original property (原物業), in relation to a person who acquires a subject property under an applicable instrument, means another residential property (whether or not together with a car parking space permitted for the parking of 1 motor vehicle) of which the person is a beneficial owner before that acquisition;

specified amount (指明款項) means—

- (a) for an applicable instrument on which stamp duty had been paid according to Scale 2 of head 1(1) in the First Schedule—an amount equal to the difference between the stamp duty paid and the stamp duty that would have been payable on that instrument if it were chargeable under Scale 1 of head 1(1) in the First Schedule; or
- (b) for an applicable instrument on which stamp duty had been paid according to Scale 2 of head 1(1A) in the First Schedule—an amount equal to the difference between the stamp duty paid and the stamp duty that would have been payable on that instrument if it were chargeable under Scale 1 of head 1(1A) in the First Schedule;

subject property (標的物業) means the residential property, or the residential property and car parking space, acquired under an applicable instrument.

- (2) This section applies if—
- (a) a person has disposed of an original property under an agreement for sale (***original agreement***) before the person acquires a subject property under an applicable instrument;
 - (b) had that original property not been disposed of before the subject property was acquired, the applicable instrument would have been chargeable with stamp duty under Scale 1 of head 1(1), or Scale 1 of head 1(1A), in the First Schedule;
 - (c) after that acquisition, the original agreement is cancelled, annulled or rescinded or is otherwise not performed in circumstances that would qualify that agreement not to be regarded as one to which head 1(1A) in the First Schedule applies under section 29C(5A); and
 - (d) the stamp duty paid on the original agreement is refunded to the person under section 29C(5B).
- (3) Despite section 4(5) and the fact that the applicable instrument may have been stamped according to section 13(1), the person is liable civilly to the Collector for the payment, within 30 days after the date the refund mentioned in subsection (2)(d) is made, of the following—
- (a) the specified amount for that instrument; and
 - (b) the interest on the specified amount at the rate of 4 cents per \$100 or part of \$100 per day for the period beginning on the expiration of 1 month from the expiration of the time for stamping that instrument, and ending on the date of payment of the specified amount.

- (4) The Collector may remit, wholly or in part, any interest payable under subsection (3).
- (5) For the definitions of *applicable instrument* and *original property* in subsection (1), a car parking space is permitted for the parking of 1 motor vehicle unless any of the following provides that the parking space may be used, at any time during the term of the Government lease in respect of the parking space or during the term of the Government lease that has been agreed for in respect of the parking space (as is appropriate), for the parking of more than 1 motor vehicle—
- (a) a Government lease or an agreement for a Government lease;
 - (b) a deed of mutual covenant, within the meaning of section 2 of the Building Management Ordinance (Cap. 344);
 - (c) an occupation permit issued under section 21 of the Buildings Ordinance (Cap. 123);
 - (d) any other instrument which the Collector is satisfied effectively restricts the permitted user of the parking space.

29DH. Liability for underpayment of ad valorem stamp duty in certain circumstances

- (1) In this section—

applicable agreement (適用協議) means an instrument on which stamp duty had been paid according to Scale 2 of head 1(1A) in the First Schedule because of the operation of section 29BB, 29BC, 29BG(1) to (3), or 29BH(1) to (3);

applicable conveyance (適用轉易契) means an instrument on which stamp duty had been paid according to Scale 2 of head 1(1) in the First Schedule because of the

operation of section 29AJ, 29AK, 29AO(1) to (3), or 29AP(1) to (3);

specified amount (指明款項) means—

- (a) for an applicable conveyance—an amount equal to the difference between the stamp duty paid on it and the stamp duty that would have been payable if it were chargeable under Scale 1 of head 1(1) in the First Schedule; or
 - (b) for an applicable agreement—an amount equal to the difference between the stamp duty paid on it and the stamp duty that would have been payable if it were chargeable under Scale 1 of head 1(1A) in the First Schedule.
- (2) Subsection (3) applies to the transferee, or each of the transferees, who acquires a residential property (whether or not together with a car parking space permitted for the parking of 1 motor vehicle) under an applicable conveyance if the Collector expresses an opinion under section 13 that—
- (a) if stamp duty had been paid on the conveyance according to Scale 2 of head 1(1) in the First Schedule because of the operation of section 29AJ—the conveyance should have been chargeable with stamp duty under Scale 1 of head 1(1) in the First Schedule because section 29AJ(1)(b) was not satisfied;
 - (b) if stamp duty had been paid on the conveyance according to Scale 2 of head 1(1) in the First Schedule because of the operation of section 29AK—the conveyance should have been chargeable with stamp duty under Scale 1 of head 1(1) in the First Schedule because section 29AK(1)(b) was not satisfied;
 - (c) if stamp duty had been paid on the conveyance according to Scale 2 of head 1(1) in the First

- Schedule because of the operation of section 29AO(1) to (3)—the conveyance should have been chargeable with stamp duty under Scale 1 of head 1(1) in the First Schedule because section 29AO(2) and (3) was not satisfied; or
- (d) if stamp duty had been paid on the conveyance according to Scale 2 of head 1(1) in the First Schedule because of the operation of section 29AP(1) to (3)—the conveyance should have been chargeable with stamp duty under Scale 1 of head 1(1) in the First Schedule because section 29AP(2) and (3) was not satisfied.
- (3) Despite section 4(3) and paragraph (C) in head 1(1) in the First Schedule, the transferee or transferees under the conveyance—
- (a) is liable, or are jointly and severally liable, civilly to the Collector for the payment of the specified amount for the conveyance and any penalty payable under section 9; and
- (b) (if there is more than one transferee) may be proceeded against without reference to any civil liability of those transferees inter se for the payment of the specified amount and penalty.
- (4) Subsection (5) applies to the purchaser, or each of the purchasers, who acquires a residential property (whether or not together with a car parking space permitted for the parking of 1 motor vehicle) under an applicable agreement if the Collector expresses an opinion under section 13 that—
- (a) if stamp duty had been paid on the agreement according to Scale 2 of head 1(1A) in the First Schedule because of the operation of section 29BB—the agreement should have been chargeable with stamp duty under Scale 1 of head

- 1(1A) in the First Schedule because section 29BB(1)(b) was not satisfied;
- (b) if stamp duty had been paid on the agreement according to Scale 2 of head 1(1A) in the First Schedule because of the operation of section 29BC—the agreement should have been chargeable with stamp duty under Scale 1 of head 1(1A) in the First Schedule because section 29BC(1)(b) was not satisfied;
 - (c) if stamp duty had been paid on the agreement according to Scale 2 of head 1(1A) in the First Schedule because of the operation of section 29BG(1) to (3)—the agreement should have been chargeable with stamp duty under Scale 1 of head 1(1A) in the First Schedule because section 29BG(2) and (3) was not satisfied; or
 - (d) if stamp duty had been paid on the agreement according to Scale 2 of head 1(1A) in the First Schedule because of the operation of section 29BH(1) to (3)—the agreement should have been chargeable with stamp duty under Scale 1 of head 1(1A) in the First Schedule because section 29BH(2) and (3) was not satisfied.
- (5) Despite section 4(3) and paragraph (C) in head 1(1A) in the First Schedule, the purchaser or purchasers under the agreement—
- (a) is liable, or are jointly and severally liable, civilly to the Collector for the payment of the specified amount for the agreement and any penalty payable under section 9; and
 - (b) (if there is more than one purchaser) may be proceeded against without reference to any civil liability of those purchasers inter se for the payment of the specified amount and penalty.

- (6) For subsections (2) and (4), a car parking space is permitted for the parking of 1 motor vehicle unless any of the following provides that the parking space may be used, at any time during the term of the Government lease in respect of the parking space or during the term of the Government lease that has been agreed for in respect of the parking space (as is appropriate), for the parking of more than 1 motor vehicle—
- (a) a Government lease or an agreement for a Government lease;
 - (b) a deed of mutual covenant, within the meaning of section 2 of the Building Management Ordinance (Cap. 344);
 - (c) an occupation permit issued under section 21 of the Buildings Ordinance (Cap. 123);
 - (d) any other instrument which the Collector is satisfied effectively restricts the permitted user of the parking space.”.

24. Part IIIA, Division 7 heading added

After section 29DH—

Add

“Division 7—Miscellaneous Provisions”.

25. Section 29E repealed (section 26 inapplicable to certain agreements)

Section 29E—

Repeal the section.

26. Section 29H amended (exemptions and relief)

Section 29H(3)—

Repeal

“(within the meaning of section 29D(6)(c))”.

27. Section 71 added

Before the First Schedule—

Add

“71. Transitional provisions for Stamp Duty (Amendment) (No. 2) Ordinance 2014

(1) In this section—

additional stamp duty (附加印花稅)—

- (a) in relation to an applicable instrument that is chargeable with stamp duty under Scale 1 of head 1(1) in the First Schedule, means the difference between that stamp duty and the stamp duty chargeable on the instrument under head 1(1) in the First Schedule to the pre-amended Ordinance;
- (b) in relation to an applicable instrument that is chargeable with stamp duty under Scale 1 of head 1(1A) in the First Schedule (except as provided in paragraph (c)), means the difference between that stamp duty and the stamp duty chargeable on the instrument under head 1(1A) in the First Schedule to the pre-amended Ordinance; and
- (c) in relation to an applicable instrument that is an agreement for sale of non-residential property, means the stamp duty chargeable on the agreement under Scale 1 of head 1(1A) in the First Schedule;

Amendment Ordinance (《修訂條例》) means the Stamp Duty (Amendment) (No. 2) Ordinance 2014 (14 of 2014);

applicable instrument (適用文書) means an instrument that is—

- (a) executed on or after 23 February 2013 and before the gazettal date; and
- (b) chargeable with stamp duty under Scale 1 of head 1(1), or Scale 1 of head 1(1A), in the First Schedule;

gazettal date (刊憲日期) means the date of publication of the Amendment Ordinance in the Gazette;

pre-amended Ordinance (《未經修訂條例》) means this Ordinance as in force immediately before 23 February 2013.

- (2) If, but for this section, the time for stamping an applicable instrument with any additional stamp duty payable on the instrument begins before the gazettal date—
 - (a) that time for stamping is to be replaced by a period of 30 days commencing immediately after the gazettal date; and
 - (b) where stamp duty had been paid on the instrument according to head 1(1) or (1A) in the First Schedule to the pre-amended Ordinance, section 9 applies only in relation to the additional stamp duty if it is not paid within the period specified in paragraph (a).
- (3) The amendments made by the Amendment Ordinance do not apply in relation to an instrument specified in subsection (4), and the pre-amended Ordinance continues to apply in relation to the instrument as if those amendments had not been made.
- (4) The following instruments are specified for the purposes of subsection (3)—

- (a) an instrument that was executed before 23 February 2013;
- (b) an agreement for sale that supersedes another agreement for sale made between the same parties and on the same terms before 23 February 2013;
- (c) a conveyance on sale that is executed in conformity with an agreement for sale made before 23 February 2013.”.

28. First Schedule amended

- (1) First Schedule, within the square brackets, after “29A,”—
Add
“29AB, 29AC, 29AD, 29AE, 29AH, 29AI, 29AJ, 29AK, 29AL, 29AM, 29AN, 29AO, 29AP, 29AQ, 29AR, 29AS, 29BA, 29BB, 29BC, 29BD, 29BE, 29BF, 29BG, 29BH, 29BI, 29BJ, 29BK,”.
- (2) First Schedule, within the square brackets, after “29DC,”—
Add
“29DE, 29DF, 29DG, 29DH,”.
- (3) First Schedule, within the square brackets—
Repeal
“& 70”
Substitute
“, 70 & 71”.
- (4) First Schedule, head 1—
Repeal
“Agreement or Contract for Sale of equitable interest,
See AGREEMENT FOR SALE and section 29E, and
CONVEYANCE ON SALE and section 26”.

- (5) First Schedule, head 1(1), heading, after “CONVEYANCE ON SALE”—

Add

“CHARGEABLE WITH AD VALOREM STAMP DUTY”.

- (6) First Schedule, head 1(1), first column, before paragraph (a)—

Add

“SCALE 2—”.

- (7) First Schedule, head 1(1), before “SCALE 2”—

Add

“SCALE 1—

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|---|--|
| <p>(a) if the amount or value of the consideration does not exceed \$2,000,000 and the instrument is certified in accordance with section 29 at \$2,000,000</p> | <p>(A) (a) 1.5% of the amount or value of the consideration</p> |
| <p>(b) if the amount or value of the consideration exceeds \$2,000,000 but does not exceed \$2,176,470 and the instrument is certified in accordance with section 29 at \$2,176,470</p> | <p>(b) \$30,000 plus 20% of the amount by which the amount or value of the consideration exceeds \$2,000,000</p> |

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| (c) if the amount or value of the consideration exceeds \$2,176,470 but does not exceed \$3,000,000 and the instrument is certified in accordance with section 29 at \$3,000,000 | (c) 3% of the amount or value of the consideration |
| (d) if the amount or value of the consideration exceeds \$3,000,000 but does not exceed \$3,290,330 and the instrument is certified in accordance with section 29 at \$3,290,330 | (d) \$90,000 plus 20% of the amount by which the amount or value of the consideration exceeds \$3,000,000 |
| (e) if the amount or value of the consideration exceeds \$3,290,330 but does not exceed \$4,000,000 and the instrument is certified in accordance with section 29 at \$4,000,000 | (e) 4.5% of the amount or value of the consideration |
| (f) if the amount or value of the consideration exceeds \$4,000,000 but does not exceed \$4,428,580 and the instrument is certified in accordance with section 29 at \$4,428,580 | (f) \$180,000 plus 20% of the amount by which the amount or value of the consideration exceeds \$4,000,000 |

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|---|---|
| (g) if the amount or value of the consideration exceeds \$4,428,580 but does not exceed \$6,000,000 and the instrument is certified in accordance with section 29 at \$6,000,000 | (g) 6% of the amount or value of the consideration |
| (h) if the amount or value of the consideration exceeds \$6,000,000 but does not exceed \$6,720,000 and the instrument is certified in accordance with section 29 at \$6,720,000 | (h) \$360,000 plus 20% of the amount by which the amount or value of the consideration exceeds \$6,000,000 |
| (i) if the amount or value of the consideration exceeds \$6,720,000 but does not exceed \$20,000,000 and the instrument is certified in accordance with section 29 at \$20,000,000 | (i) 7.5% of the amount or value of the consideration |
| (j) if the amount or value of the consideration exceeds \$20,000,000 but does not exceed \$21,739,130 and the instrument is certified in accordance with section 29 at \$21,739,130 | (j) \$1,500,000 plus 20% of the amount by which the amount or value of the consideration exceeds \$20,000,000 |
| (k) in any other case | (k) 8.5% of the amount or value of the consideration |

- (B) 30 days after the execution; but see Note 2 to this sub-head
- (C) All parties, and all other persons executing; but see Notes 2 and 7 to this sub-head”.

- (8) First Schedule, head 1(1), Scale 2, paragraph (C)—

Repeal

“Note 2”

Substitute

“Notes 2 and 7”.

- (9) First Schedule, head 1(1)—

Repeal

“And see sections 2, 4, 22, 23, 24, 25, 26,”

Substitute

“And see sections 2, 4, 22, 23, 24, 25,”.

- (10) First Schedule, head 1(1), before Note 1—

Add

“Note 1A

This sub-head applies to a conveyance on sale according to section 29AI

Note 1B

Scale 2 of this sub-head applies in relation to the stamp duty chargeable on a conveyance on sale by which a leasehold interest in land is transferred to, or vested in, a person by another person (*transferor*) if it is shown to the satisfaction of the Collector that the leasehold interest was acquired by the transferor under an instrument that was stamped or chargeable with stamp duty under sub-head (2)

Note 1C

Scale 2 of this sub-head applies in relation to the stamp duty chargeable on a lease or an agreement for a lease if the lease or agreement is chargeable with stamp duty as a conveyance on sale under section 27(1) by virtue of section 27(4)".

- (11) First Schedule, head 1(1)—

Repeal Note 1

Substitute

"Note 1

Scale 2 of this sub-head applies in relation to the stamp duty chargeable by reference to it by virtue of sub-head (2)(a), in a case where part of the consideration for a lease consists of rent, as if paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i) and (j) in Scale 2 and the words "in any other case" in paragraph (k) in Scale 2 were omitted".

- (12) First Schedule, head 1(1), Note 5—

Repeal

"residential"

Substitute

"immovable".

- (13) First Schedule, head 1(1)—

Repeal

"Exchange, Instruments effecting—see section 25(7)"

Substitute

"Note 7

This sub-head is subject to sections 29DE, 29DF, 29DG and 29DH

Exchange, Instruments effecting—see sections 25(7), 29AO and 29AP".

- (14) First Schedule, head 1(1A), heading, after “AGREEMENT FOR SALE”—

Add

“CHARGEABLE WITH AD VALOREM STAMP DUTY”.

- (15) First Schedule, head 1(1A), first column, before paragraph (a)—

Add

“SCALE 2—”.

- (16) First Schedule, head 1(1A), before “SCALE 2”—

Add

“SCALE 1—

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| <p>(a) if the amount or value of the consideration does not exceed \$2,000,000 and the instrument is certified in accordance with section 29G at \$2,000,000</p> | <p>(A) (a) 1.5% of the amount or value of the consideration</p> |
| <p>(b) if the amount or value of the consideration exceeds \$2,000,000 but does not exceed \$2,176,470 and the instrument is certified in accordance with section 29G at \$2,176,470</p> | <p>(b) \$30,000 plus 20% of the amount by which the amount or value of the consideration exceeds \$2,000,000</p> |

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| (c) if the amount or value of the consideration exceeds \$2,176,470 but does not exceed \$3,000,000 and the instrument is certified in accordance with section 29G at \$3,000,000 | (c) 3% of the amount or value of the consideration |
| (d) if the amount or value of the consideration exceeds \$3,000,000 but does not exceed \$3,290,330 and the instrument is certified in accordance with section 29G at \$3,290,330 | (d) \$90,000 plus 20% of the amount by which the amount or value of the consideration exceeds \$3,000,000 |
| (e) if the amount or value of the consideration exceeds \$3,290,330 but does not exceed \$4,000,000 and the instrument is certified in accordance with section 29G at \$4,000,000 | (e) 4.5% of the amount or value of the consideration |
| (f) if the amount or value of the consideration exceeds \$4,000,000 but does not exceed \$4,428,580 and the instrument is certified in accordance with section 29G at \$4,428,580 | (f) \$180,000 plus 20% of the amount by which the amount or value of the consideration exceeds \$4,000,000 |

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|--|---|
| (g) if the amount or value of the consideration exceeds \$4,428,580 but does not exceed \$6,000,000 and the instrument is certified in accordance with section 29G at \$6,000,000 | (g) 6% of the amount or value of the consideration |
| (h) if the amount or value of the consideration exceeds \$6,000,000 but does not exceed \$6,720,000 and the instrument is certified in accordance with section 29G at \$6,720,000 | (h) \$360,000 plus 20% of the amount by which the amount or value of the consideration exceeds \$6,000,000 |
| (i) if the amount or value of the consideration exceeds \$6,720,000 but does not exceed \$20,000,000 and the instrument is certified in accordance with section 29G at \$20,000,000 | (i) 7.5% of the amount or value of the consideration |
| (j) if the amount or value of the consideration exceeds \$20,000,000 but does not exceed \$21,739,130 and the instrument is certified in accordance with section 29G at \$21,739,130 | (j) \$1,500,000 plus 20% of the amount by which the amount or value of the consideration exceeds \$20,000,000 |

- | | |
|-----------------------|---|
| (k) in any other case | <p>(k) 8.5% of the amount or value of the consideration</p> <p>(B) 30 days after the relevant date (within the meaning of section 29B(3)); but see Notes 2 and 3 to this sub-head</p> <p>(C) All parties except a party who on the relevant date (within the meaning of section 29B(3)) does not know that the agreement affects that party, and all other persons executing; but see Note 7 to this sub-head”.</p> |
|-----------------------|---|
- (17) First Schedule, head 1(1A), Scale 2, paragraph (C), after “all other persons executing”—
- Add**
- “; but see Note 7 to this sub-head”.
- (18) First Schedule, head 1(1A)—
- Repeal Note 1**
- Substitute**
- “Note 1
- This sub-head applies to an agreement for sale according to section 29BA”.
- (19) First Schedule, head 1(1A), after Note 1—
- Add**
- “Note 1A

Scale 2 of this sub-head applies in relation to the stamp duty chargeable on an agreement for sale if it is shown to the satisfaction of the Collector that—

- (a) the agreement is an instrument which, if implemented, would be implemented by a conveyance on sale; and
 - (b) the conveyance on sale would, by the operation of Note 1B to sub-head (1), be chargeable with stamp duty under Scale 2 of sub-head (1)".
- (20) First Schedule, head 1(1A)—

Repeal Note 5

Substitute

“Note 5

For the purposes of Notes 2, 3 and 4, and if the immovable property concerned is residential property, 2 or more persons are treated as the same person if, on the date of the agreement made between those persons—

- (a) they are closely related;
 - (b) each of them is acting on his or her own behalf; and
 - (c) each of them is not a beneficial owner of any other residential property in Hong Kong”.
- (21) First Schedule, at the end of head 1(1A)—

Add

“Note 7

This sub-head is subject to sections 29D, 29DE, 29DF, 29DG and 29DH”.

- (22) First Schedule, head 1(1B)—

Repeal Note 3.

- (23) First Schedule, head 1(1B)—

Repeal Note 4

Substitute

“Note 4

Notes 2, 3 and 4 to head 1(1A) apply to special stamp duty chargeable on an agreement for sale of residential property under this sub-head as they apply to stamp duty chargeable under head 1(1A); and for the purposes of applying those Notes to special stamp duty, 2 or more persons are treated as the same person if they are closely related”.

(24) First Schedule, head 1(1C)—

Repeal Note 2.

(25) First Schedule, head 1(1C)—

Repeal Note 3

Substitute

“Note 3

Notes 2, 3 and 4 to head 1(1A) apply to buyer’s stamp duty chargeable on an agreement for sale of residential property under this sub-head as they apply to stamp duty chargeable under head 1(1A); and for the purposes of applying those Notes to buyer’s stamp duty, 2 or more persons are treated as the same person if they are closely related”.

Part 3

Consequential Amendment

29. Land Titles Ordinance amended

The Land Titles Ordinance (Cap. 585) is amended as set out in this Part.

30. Schedule 3 amended (consequential amendments)

Schedule 3, section 41(b), new section 15(3)(aa)—

Repeal

everything after “registration of the”

Substitute

“matter—

- (i) is stamped under section 5(1), 13(2) or 18E(1); or
- (ii) is an agreement for sale that was made before 23 February 2013 and contains a statement to the effect that it relates to non-residential property within the meaning of section 29A(1); or”.