

9 May 2022

Ms Sim Bock Eng
Chairman
Society of Trust and Estate Practitioners (Singapore Branch)
12 Eu Tong Sen Street
#08-169 The Central
Singapore 059819



Dear Ms Sim

Stamp Duties for Trusts

I wish to update you on some recent changes to the Additional Buyer's Stamp Duty (ABSD) and Additional Conveyance Duties (ACD) regimes.

On 8 May 2022, the Government announced that any transfer of residential property into a living trust¹ will be subject to ABSD rate at 35% (hereinafter referred to as "**ABSD (Trust)**").

On 9 May 2022, the Government also introduced the Stamp Duties (Amendment) Bill (the "**Bill**") in Parliament. The Bill introduces the Additional Conveyance Duties for Trust ("**ACD (Trust)**") and the stamp duty treatment for renunciation of interest in residential property held on bare trust.

ABSD (Trust)

The new ABSD (Trust) of 35% will apply where the instrument transferring the residential property into the trust is executed on or after 9 May 2022.

Where the beneficiary of the trust is a housing developer, the ABSD rate will remain at 40% (i.e. 5% non-remittable and 35% remitted upfront subject to conditions).

Legal representatives may use the e-Stamping portal to stamp the relevant dutiable instruments at the ABSD (Trust) rate of 35%.

Remission of ABSD (Trust)

Trusts which consist only of identifiable individual beneficiaries may be eligible for remission of ABSD (Trust) under the Stamp Duties (Trusts for Identifiable Individual Beneficiary) (Remission of ABSD) Rules 2022. The amount to be refunded will be based on the difference between the ABSD (Trust) rate of 35% and the ABSD rate corresponding to the profile of the beneficial owner with the highest applicable ABSD rate.

As defined in Article 3 of the First Schedule of the Stamp Duties Act, an identifiable individual beneficiary for whom an estate or interest in residential property is held on trust, is an individual

—

¹ A living trust is one that is created by a person (the settlor) during his or her lifetime.

- (a) who is identified in the declaration of trust as a beneficiary of the estate or interest whether solely or together with another; and
- (b) who, because of the trust, has beneficial ownership of the estate or interest (whether solely or together with another) that is not, under the terms of the trust, revocable, variable, or subject to any condition subsequent,

but excludes an individual who is entitled to any estate or interest in property in remainder or reversion.

To avoid doubt, each of the following is not an identifiable individual beneficiary:

- (a) an individual who has not been born on the date of the declaration of trust;
- (b) an individual who is entitled only to the income of the property under the trust;
- (c) an individual whose estate or interest in the property under the trust is a contingent or discretionary interest, or who becomes entitled to an estate or interest in the property only upon revocation of the trust.

The conditions for the remission are as follows:

1. The residential property is held on trust for one or more identifiable individual beneficiaries only;
2. ABSD (Trust) of 35% has been paid; and
3. The claim is made within 6 months after the date of execution of the instrument.

Legal representatives may apply for the remission via the e-Stamping Portal. If you are applying for more than one remission, please specify all applicable remissions. More information on the ABSD (Trust) remission can be found on IRAS' website (www.iras.gov.sg).

We have also updated the attached ABSD Declaration Form (also available on IRAS' website) given this change. All buyers, beneficiaries or trustees (where applicable) of residential properties are required to fill up this form, to be witnessed by their lawyer or a notary public. This form must be retained and submitted to IRAS upon request.

ACD (Trust)

ACD currently applies, and will continue to apply, to transfers of equity interest in Property Holding Entities ("PHEs")² into living trust with identifiable beneficial owners who are or become significant owners of the PHEs.

With the introduction of ACD (Trust), ACD will be payable on transfers of equity interests in PHEs into all living trusts executed on or after 10 May 2022 where the significant owner threshold has been reached, even if there is no identifiable beneficial owner of the equity interests at the time of transfer.

In determining whether the significant owner threshold is reached for a living trust with non-identifiable beneficial owners, the equity interests that the trustee holds for the trust will be considered together with those held by his associates.

² A PHE is an entity which has at least 50% of its total tangible assets comprising residential properties in Singapore. A significant owner (i.e. holding at least 50% equity interest or 50% voting rights in a PHE) is subject to ACD if the PHE shares are bought or sold.

ACD will also be payable in situations where:

1. equity interest in a PHE was transferred to the trust on or after 10 May 2022;
2. the trustee subsequently executes a conveyance of the trust equity interest to a beneficiary who was previously not an identifiable beneficial owner at the time the equity interests were transferred to be held on trust; and
3. such beneficiary remains or becomes a significant owner as a result of this conveyance.

As per current practice for ACD cases, legal representatives may continue to apply for assessment on the e-Stamping Portal.

Renunciation of Residential Property Held on Trust

Buyer's stamp duty, and where applicable, ABSD and seller's stamp duty, will be imposed in a case where:

1. a residential property is transferred into a living trust on or after 10 May 2022;
2. all the beneficial owners of the residential property are identified at the time of transfer; and
3. a beneficial owner of that property renounces his interest in the property on or after 10 May 2022.

The beneficial owner renouncing his interest must notify the settlor and the Commissioner of Stamp Duties of the renunciation within a specified period by serving a prescribed notice, on which stamp duty will be imposed. The original beneficial owner may also be liable for SSD upon his renunciation.

The settlor, as the new beneficial owner, will be liable to pay the applicable stamp duties within a specified period.

Legal representatives or their clients may wish to refer to IRAS' website for more details.

We would be grateful if you could disseminate the above information to your members.

Thank you.

XU DINGJIAO (MS)
DIRECTOR
PROPERTY TAX DIVISION
VALUATION & STAMP DUTY BRANCH
for COMMISSIONER OF STAMP DUTIES