



INLAND REVENUE DEPARTMENT
STAMP OFFICE
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Kai Tak, Kowloon, Hong Kong

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To: *Stamp Office Customers*

STAMP OFFICE
Stamping Circular No. 03/2018
Stamping of instruments involving residential properties
executed on or after 5 November 2016 and before
the gazettal date of the Stamp Duty (Amendment) Ordinance 2018

The Stamp Duty (Amendment) Ordinance 2018 (“the Amendment Ordinance”) was published in the Gazette on 19 January 2018 (“Date of Gazettal”). The Amendment Ordinance introduces a new flat rate of 15% (“NRSD”) (i.e. the rate under Part 1 of Scale 1 of Head 1(1) and Head 1(1A) in the First Schedule to the Stamp Duty Ordinance (“the Ordinance”)) on certain instruments dealing with residential property executed on or after 5 November 2016 (“Effective Date”) in lieu of the then prevailing ad valorem stamp duty (“AVD”) at Scale 1 rates (i.e. the rates under the new Part 2 of Scale 1 of Head 1(1) and Head 1(1A) in the First Schedule to the Ordinance) (“the Prevailing Scale 1 Rates”). For Hong Kong permanent residents who change their residential property and wish to claim partial refund of the AVD paid in respect of the new property acquired on or after the Effective Date, the Amendment Ordinance also extends the time limit for the disposal of the original property from within 6 months to within 12 months after the date of conveyance of the new property.

2. The following paragraphs set out the arrangements for stamping additional stamp duty (“additional stamp duty”), that is, the difference between AVD calculated at NRSD and the Prevailing Scale 1 Rates or applying for no additional stamp duty payable regarding instruments of residential properties executed on or after the Effective Date and already been stamped before the Date of Gazettal (“the Transitional Period”).

(I) For cases chargeable with additional stamp duty

Time for stamping of additional stamp duty

3. The time for paying additional stamp duty on instruments chargeable with NRSD is within 30 days commencing immediately after the Date of Gazettal (i.e. 18 February 2018). As 18 and 19 February 2018 are Sunday and public holiday

respectively, the due date for payment will be extended to 20 February 2018.

Payment methods

Instruments chargeable with additional stamp duty which involve residential property only

4. If a demand note for payment of additional stamp duty has been received from the Stamp Office, the liable party or any other person on his/her behalf may make payment of the additional stamp duty by presenting the demand note. The payment can be made by electronic means (i.e. by phone, by bank ATM or via the Internet), by post, or in person at any post office, Stamp Office, etc. For details, you may refer to the Important Note attached to the demand note. A stamp certificate denoting payment of the additional stamp duty will be issued after payment.

5. If no demand note has been received, the purchaser or any other liable person is required to submit a duly completed Supplemental Information Form A ("Form A") at Appendix A together with (i) a cheque for payment of additional stamp duty; and (ii) a copy of the stamp certificate if initial stamping was by e-Stamping; or (iii) the original instrument if initial stamping was by conventional stamping. The stamped instrument or stamp certificate denoting payment of the additional stamp duty will be ready for collection within the following 14 working days.

Instruments chargeable with additional stamp duty which involve residential property and non-residential property

6. For an instrument which is partly chargeable with AVD at NRSD and partly at Part 2 of Scale 1, for example, the instrument covers both residential property and non-residential property including car parking space(s) which are separate and distinct properties, and only the acquisition of the residential property is subject to AVD at NRSD, the time for paying additional stamp duty in respect of the residential property is within 30 days commencing immediately after the Date of Gazettal. If a demand note for payment of additional stamp duty has been received from the Stamp Office and the value of the residential property stated therein is agreeable, the liable party has to submit on or before 20 February 2018 a duly completed Form A together with (i) a cheque for payment of additional stamp duty; (ii) a copy of the demand note; and (iii) the original instrument (for conventional stamping only). The stamped instrument or stamp certificate will be ready for collection within the following 14 working days.

7. If no demand note has been received or the liable party does not agree with the value of the residential property as stated in the demand note, the liable party or any other person on his/her behalf is required to provide documentary evidence to show how the respective considerations for the residential property and the non-residential property were determined (for example a copy of the agreement for sale if the considerations were separately shown in the relevant agreement), or what

the respective values are tentatively agreed (if the separate considerations were not shown in any document). In any event, cheque for payment of additional stamp duty based on the stated consideration or value of the residential property tentatively agreed (with reason(s) of disagreement to its stated value as shown in the demand note) together with the original instrument (for conventional stamping only) have to be submitted. Except with reasons provided for disagreement, any stamping request without making the full payment as is demanded in the demand note, if any, will not be entertained. The Collector of Stamp Revenue (“the Collector”) will, based on the valuation of the Commissioner of Rating and Valuation (“CRV”), demand further additional stamp duty payable on the instrument if the value of the residential property assessed by CRV is greater than the stated consideration or the value as proposed in the stamping request.

(II) For cases where no additional stamp duty is due for payment

Chargeable instrument executed on or after 5 November 2016 but is preceded by an agreement for sale made between the same parties and on the same terms before 5 November 2016

8. If the instrument is an agreement for sale that superseded another agreement for sale made between the same parties and on the same terms before 5 November 2016; or a conveyance on sale that was executed in conformity with an agreement for sale made before 5 November 2016, a duly completed Supplemental Information Form B (“Form B”) at Appendix B and a certified copy of the first agreement for sale made by the relevant parties are required to be submitted on or before 20 February 2018.

For cases of change of residential properties

9. Under section 29DF of the Ordinance, a Hong Kong permanent resident purchaser acting on his or her own behalf who acquires a new residential property (and a car parking space, if applicable) to replace another (and only other) residential property (and a car parking space, if applicable) is subject to AVD at NRSD after the Date of Gazettal or the Prevailing Scale 1 Rates during the Transitional Period in the first instance (subject to the payment of additional stamp duty after the Date of Gazettal). The purchaser may apply for a refund of the AVD paid in excess of that computed at Scale 2 rates of Head 1(1) and Head 1(1A) in the First Schedule to the Ordinance upon proof that the original residential property and car parking space, if applicable, has been disposed of within 6 months from the date of assignment of the new property (“the 6-month period”) if the new property was acquired before 5 November 2016 or within 12 months from the date of assignment of the new property (“the 12-month period”) if the new property was acquired on or after 5 November 2016 (the 6-month period and the 12-month period are collectively referred to as “the specified time limit”).

10. To simplify the payment and refund arrangement for the cases of change of properties during the Transitional Period, the purchaser may claim for exemption for payment of additional stamp duty if the conditions as specified under section 29DF of the Ordinance have been satisfied, i.e. the HKPR's only original property has been disposed of within the specified time limit and the transaction for disposal of the original property has been completed.

11. If the purchaser has applied for a partial refund of AVD at the Prevailing Scale 1 Rates paid on the chargeable instrument under section 29DF of the Ordinance and the refund has been approved by the Stamp Office, it is then not required for the applicant to submit the chargeable instrument to the Stamp Office for stamping of additional stamp duty. If such application has been made but is still under processing, the purchaser should provide a duly completed Form B on or before 20 February 2018. In case that the application for partial refund of AVD has not yet been made but the conditions in section 29DF of the Ordinance have nonetheless been satisfied, the purchaser should make such application by furnishing the Stamp Office with a duly completed Form B together with (i) an original statutory Declaration (IRSD131C) and (ii) a duly completed IRSD125A on or before 20 February 2018. In the latter scenario, no such application under section 29DF of the Ordinance would be deemed effective unless and until a valid application has been lodged. The Stamp Office will demand for payment of additional stamp duty in all cases where no such application for partial refund of AVD has been made (even if eligible to do so) or application has been made but turned out to be unsuccessful.

Penalty

12. Taking into account that solicitors will have to handle a vast number of cases chargeable with additional stamp duty within a short period of time, the Collector may consider exercising his power in warranted cases to remit the penalty in whole or in part for late stamping in accordance with section 9(2) of the Ordinance. Each case will be considered on its own merits. The concerned solicitors are required to submit a duly completed IRSD127 in support of their application for remission of the penalty.

13. For any enquiries, please call us at 2594 3202.

*Stamp Office
January 2018*

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For Official Use

To: Collector of Stamp Revenue

Supplemental Information Form A
Stamping Additional Stamp Duty on an instrument for
Immovable Property Transaction involving Residential Property

Part 1: Method of Stamping for the Present Application

- Stamp Certificate – Application for stamping without presenting instrument
 Conventional Stamp – Only applicable if the initial stamping is by conventional stamping

Part 2: Instrument Details

1. Instrument Reference No. : _____
 2. Property Address : _____
 3. Whether the instrument is wholly chargeable with Ad Valorem Stamp Duty (“AVD”) at Part 1 of Scale 1 (“NRSD”)?
 Yes, the consideration of the instrument: \$ _____
 No, the consideration chargeable with AVD at NRSD: \$ _____ (Note 1)

Part 3: Documents attached (Note 2)

- Copy of Stamp Certificate or Original/Copy of Stamped Instrument *
 Cheque for payment of additional stamp duty: \$ _____

For Official Use

Part 4: Declaration

I hereby submit the above documents for supporting the stamping.

Organization Chop

Signature : _____
 Name : _____
 Name of Solicitor Firm : _____
 Contact Reference No. : _____
 Telephone No. : _____
 Date : _____

Note1: The instrument covers both residential properties and non-residential properties which are separate and distinct properties and only the residential property is subject to AVD at NRSD.

- Note2: (i) If you choose conventional stamping under Part 1, the original instrument must be submitted for imprinting of stamp.
 (ii) If you choose stamp certificate under Part 1 and the instrument was stamped through e-Stamping previously, you have to submit a copy of the previous stamp certificate.
 (iii) If you choose stamp certificate under Part 1 and the instrument was stamped by conventional stamping previously, you have to submit a copy of the stamped instrument or provide the instrument reference number (IRN).

* delete whichever inapplicable

- (☑ tick as appropriate)

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Supplemental Information Form B
**For application of charging ad valorem stamp duty (“AVD”) at Part 2 of Scale 1 rates/
Partial refund of AVD paid regarding the instruments of residential property**

Part 1: Instrument Details

- 1. Instrument Reference No. : _____
- 2. Property Address : _____
_____ (“the New Property”)
- 3. Number of purchaser : _____

Part 2: Reason for claiming that AVD at Part 2 of Scale 1 applies

- 1. The stamped instrument was executed on or after 5 November 2016 whereas the earliest instrument in respect of this transaction was executed before 5 November 2016.
- 2. The purchaser disposed of his or her only other residential property (and car parking space) (“the Original Property”) within 6 months after the date of assignment of the New Property (if the New Property was acquired before 5 November 2016) or within 12 months after the date of assignment of the New Property (if the New Property was acquired on or after 5 November 2016) and the transaction for disposing of the Original Property has been completed.

Part 3: Supporting documents

- For Item (1) of Part 2, a copy of the earliest instrument is attached for review.
- For Item (2) of Part 2
 - (a) Application for partial refund has been made
 - A copy of the IRSD125A previously submitted to the Stamp Office
 - (b) Application for partial refund has not been made
 - Duly completed IRSD125A
 - Original Statutory Declaration (Form IRSD131C) of the Purchaser(s)

For Official Use

(✓ tick as appropriate)

Part 4: Declaration

I hereby submit the above documents to support the claim of charging AVD at Part 2 of Scale 1/partial refund of AVD paid.

Signature : _____
 Name : _____
 Name of Solicitor Firm : _____
 Contact Reference No. : _____
 Telephone No. : _____
 Date : _____

Organization Chop