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To: Stamp Office Customers

STAMP OFFICE
Stamping Circular No. 04/2018
Stamping of instruments of immovable properties from the gazettal date of the
Stamp Duty (Amendment) (No. 2) Ordinance 2018

The Stamp Duty (Amendment) (No. 2) Ordinance 2018 (“the Amendment Ordinance”) was published in the Gazette on 20 April 2018 (“Date of Gazettal”). By virtue of the Amendment Ordinance, certain instruments executed on or after 12 April 2017 (“Effective Date”) for acquisition of more than a single residential property under one single instrument is subject to a 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”)) even if the purchaser/transferee is a Hong Kong permanent resident (“HKPR”) who is acting on his/her own behalf and is not a beneficial owner of any other residential property in Hong Kong at the time of acquisition.

2. The following paragraphs set out the arrangements for stamping ad valorem stamp duty (“AVD”) regarding instruments of immovable properties on or after the Date of Gazettal.

For Electronic Stamping Applications

Instruments involving residential property only

3. An applicant may submit an electronic stamping application for a chargeable agreement for sale or a conveyance on sale involving residential property only if -

- (a) the instrument is chargeable with AVD at Scale 2 rates for the reason that the purchaser, or each of the purchasers, is a HKPR acting on his or her own behalf in acquiring a single residential property under the instrument; and that purchaser, or each of those purchasers, is not a beneficial owner of any other residential property in Hong Kong on the date of acquisition of the property concerned; or
- (b) the whole instrument is chargeable with AVD at NRSD rate;

AND,

the instrument is not chargeable with buyer's stamp duty ("BSD") for the reason that the purchaser (or each of the purchasers) is a HKPR acting on his or her own behalf in acquiring the residential property concerned, and special stamp duty ("SSD")¹.

4. The Amendment Ordinance has not exhaustively defined the term "single residential property". However, it provides that a "single residential property" includes:

- (a) a unit and a roof situated in the same building;
- (b) a unit and an adjacent flat roof situated in the same building;
- (c) a unit and an adjacent garden; and
- (d) a unit that became a single unit following the demolition of the walls or the floor, or any part of the walls or the floor, separating two units as shown by—
 - (i) a building plan and a letter issued by the Building Authority acknowledging receipt of a certificate of completion of the building works relating to the demolition as required under the Building (Administration) Regulations (Cap. 123 sub. leg. A); or
 - (ii) a plan signed by an authorized person after the completion of the building works relating to the demolition.

In determining whether a residential property is a "single residential property", the Collector of Stamp Revenue ("the Collector") may have regard to, among others, the building plans, deed of mutual covenant, occupation permit in respect of the residential property and other relevant documents.

If the properties concerned fall within the meaning of a "single residential property", the applicant is required to report the Number of Property Transferred as "1" in the stamping application.

5. Original statutory declaration to support the claim of charging AVD at Scale 2 rates and/or exemption of BSD made by the purchaser or each of the purchasers and a copy of the stamp certificate in respect of the subject transaction must be submitted to the Stamp Office **within 30 days** after the date on which the relevant electronic stamping application is completed.

Instruments involving non-residential property only

¹ Only paper application is applicable to the following cases:

- Cases chargeable with BSD;
- Cases chargeable with SSD;
- BSD exempted cases not otherwise because the purchaser is a HKPR acting on his or her own behalf in acquiring the residential property concerned; or
- SSD exempted cases for the reasons other than that the holding period is more than 24 months (for property acquired between 20 November 2010 and 26 October 2012) or 36 months (for property acquired on or after 27 October 2012)

6. An applicant may submit an electronic stamping application for a chargeable agreement for sale or a conveyance on sale involving non-residential property only if the instrument is chargeable with AVD at Part 2 of Scale 1 rates.

Instruments involving residential property and non-residential property

Instrument wholly chargeable with AVD at Scale 2 rates

7. An applicant may submit an electronic stamping application for a chargeable agreement for sale or a conveyance on sale of a single residential property, together with a car parking space if the instrument is chargeable with AVD at Scale 2 rates for the reason that the purchaser, or each of the purchasers (if more than one purchaser), is a HKPR acting on his or her own behalf in acquiring the residential property and the car parking space under the agreement; and that purchaser, or each of those purchasers, is not a beneficial owner of any other residential property and car parking space in Hong Kong on the date of acquisition of the properties concerned. The documents to support the claim of charging AVD at Scale 2 rates regarding the acquisition of the residential property together with the car parking space as required in paragraph 5 above have to be submitted accordingly.

For Paper Applications

Instrument chargeable with AVD partly at Scale 2 rates and partly at Part 2 of Scale 1 rates

8. For an instrument which is chargeable with AVD partly at Scale 2 rates and partly at Part 2 of Scale 1 rates, for example, the instrument covers both residential property and non-residential property including car parking spaces which are separate and distinct properties, and only the acquisition of the residential property is subject to Scale 2 rates, the stamping of the concerned instrument must be made by way of conventional stamping under adjudication. The documents to support the claim of charging AVD at Scale 2 rates regarding the acquisition of the residential property alone as required in paragraph 5 above have to be submitted accordingly.

9. The applicant has to state the respective amounts of consideration of the residential property and the non-residential property in the chargeable instruments and/or the stamping applications. If such amounts are not separately shown, justifiable reasons have to be provided. The chargeable instruments will be treated as instruments of residential property first and AVD computed at Scale 2 rates has to be paid upfront when submitting the instruments for stamping. The Collector will, based on the valuation of the Commissioner of Rating and Valuation (“CRV”), demand further AVD payable on the instruments for any shortfall of stamp duty payable on the non-residential property.

Instrument chargeable with AVD partly at NRSD rate and partly at Part 2 of Scale 1 rates

10. For an instrument which is chargeable with AVD partly at NRSD rate and partly at Part 2 of Scale 1 rates, for example, the instrument covers both residential property and non-residential property including car parking spaces which are separate and distinct properties, and only the acquisition of the residential property is subject to NRSD rate, the stamping of the instrument concerned must also be made by way of conventional stamping under adjudication.

11. If the respective considerations for the residential property and the non-residential property as required in paragraph 9 above are not separately shown, the chargeable instruments will be treated as instruments of residential property first and AVD computed at NRSD rate has to be paid upfront when submitting the instruments for stamping. The Collector will, based on the valuation of CRV, repay the excessive stamp duty in respect of the acquisition of the non-residential property.

12. To support the initial stamping application of a chargeable instrument in paper form, an applicant is required to submit (i) a duly completed stamping request form (IRSD112); and (ii) separate cheques for payments of AVD, SSD and BSD, where applicable.

13. In respect of residential property transactions, any claim of charging AVD at Scale 2 rates and/or exemption of BSD for the reasons stated in paragraph 3(a) above must be supported by original statutory declaration made by each purchaser and submitted to the Stamp Office together with the stamping application. As for the claim for charging AVD at Scale 2 rates and/or exemption of BSD for other reasons, as well as the claim for exemption of SSD, if applicable, the applicant is required to submit the original statutory declaration, a duly completed form IRSD118, and other relevant documentary evidence as is required together with the stamping application.

14. In respect of any claim for charging AVD at Scale 2 rates on a chargeable agreement for sale or a conveyance on sale of non-residential property, the applicant is required to submit a duly completed form IRSD118 and other relevant documentary evidence together with the stamping application.

15. The time for stamping shall be within 30 days after the date on which the instrument is executed. The stamped instrument or stamp certificate will be ready for collection within 5 working days after receipt of the application.

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

*Stamp Office
April 2018*