



**INLAND REVENUE DEPARTMENT
STAMP OFFICE**

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STAMPING PROCEDURES AND EXPLANATORY NOTES

**Stamp Duty (Amendment) (No. 2) Ordinance 2000
Exemption - Instruments of Transfer
of Units under Mandatory Provident Fund Schemes**

Introduction

The Stamp Duty (Amendment) (No. 2) Ordinance 2000 will come into operation on 1 December 2000. It provides for the exemption of fixed stamp duty chargeable on a transfer of units when the units are issued or redeemed, if a constituent fund of a mandatory provident fund (MPF) scheme is a party to the transfer. The requirement to endorse the relevant instruments of unit transfers as required under section 19(8) of the Stamp Duty Ordinance (Cap. 117) is consequentially dispensed with. The underlying objective of this enactment is to facilitate the smooth operation of the MPF Scheme which was scheduled for implementation on 1 December 2000. This exemption simplifies the procedures involved and reduces the administrative burden on the trustees and managers of the constituent funds.

Mandatory Provident Fund Schemes

2. Under the Mandatory Provident Fund Schemes Ordinance (Cap. 485), the entire work force in Hong Kong, save for the exempted categories, are required to join MPF schemes. An MPF scheme is governed by a trust. Contributions made into a Constituent Fund (“CF”)¹ of an MPF scheme will be invested into securities to generate profits or income which will eventually be accrued to the scheme members’ interest. Investment may take the form of investment in Approved Pooled Investment Fund (“APIF”)² which is a unit trust. To protect the interest of scheme members, the legislation requires all MPF schemes including the underlying unit trusts be governed by the law of the Hong Kong Special Administrative Region.

Stamp Duty Implications

3. Both the CF under the MPF scheme and the APIF in which CF invests fall within the definition of a “unit trust scheme” under section 30 of the Stamp Duty Ordinance. Hence, *without the new exemption*, all the transfers arising from both the indirect allotment of units through fund managers

¹ Under section 47A(5) of the Stamp Duty Ordinance, “constituent fund” has the same meaning as in section 2 of the Mandatory Provident Fund Schemes (General) Regulation (Cap. 485 sub. leg.)

² Under section 47A(5) of the Stamp Duty Ordinance, “approved pooled investment fund” has the same meaning as in section 2 of the Mandatory Provident Fund Schemes (General) Regulation (Cap. 485 sub. leg.)

either between the CF and the Scheme member, or between the CF and APIF, as well as those arising from redemption of units between the same parties, are chargeable to the fixed stamp duty, currently at the rate of \$5 per instrument of transfer. Moreover, all the relevant instruments of transfer in these transactions are required to be endorsed by the Collector of Stamp Revenue (“Collector”) as not chargeable to *ad valorem* stamp duty in order to become dully stamped instruments.

Exemption under Section 47A of the Stamp Duty Ordinance

4. The new section 47A exempts the following four types of unit transfers under the MPF schemes from the payment of the fixed stamp duty of \$5 per transfer instrument. The requirement to submit such instruments of transfer to the Collector for endorsement is correspondingly removed as they are no longer chargeable instruments. The exempted transactions are as follows -

- (a) indirect allotment of units by the CF under the MPF schemes to the MPF scheme members through the fund managers [section 47A(1)];
- (b) redemption of units in CF by MPF scheme members [section 47A(3)];
- (c) indirect allotment of units by the APIF to CF under the MPF schemes through the fund managers [section 47A(2)]; and
- (d) redemption of units in APIF by CF under the MPF schemes [section 47A(4)].

5. Therefore, instruments of transfer of the aforesaid types are ***not required*** to be presented to the Stamp Office for stamping or endorsement. They can be acted upon, filed and registered by the manager or trustee of the CF or APIF without stamping or endorsement.

Other Sales or Purchases or Transfers of Units

6. It should be noted that the exemption only applies to indirect allotment and redemption as set out in paragraph 4 above. Any other types of sales or purchases or transfers of units are still subject to the current provisions of the Stamp Duty Ordinance.

Enquiries

7. For enquiries, please contact the Stamp Office by telephone or in writing as follows:

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