

STAMP DUTY CHANGES ANNOUNCED IN BUDGET 2000
-FURTHER STAMP DUTY RELIEF FOR CORPORATE RESTRUCTURINGS
UNDER SECTION 15 OF THE ACT

INTRODUCTION

Section 15 of the Stamp Duty Act provides relief from ad valorem stamp duty for corporate restructurings if –

- a) the transfer is made pursuant to a scheme of reconstruction or amalgamation;
- b) what is being acquired is the business undertaking of the existing (target) company or at least 90% of the issued share capital of the target company;
- c) at least 90% of the consideration for the acquisition (excluding the discharge of liabilities) is paid in the form of shares issued by the transferee company;
- d) the consideration shares are issued to the existing company or to its shareholders where the business undertaking is being acquired. Where shares are acquired, the consideration shares are shares issued to the shareholders of the existing company and
- e) the transfer does not result in a substantial change in the beneficial interest of the undertaking or shares acquired. That is to say, during the period of 2 years from the date of registration or incorporation or of the authority for the increase of the capital of the transferee company-
 - (i) the transferee company does not dispose of the acquired undertaking or shares;
 - (ii) the persons in receipt of the consideration shares do not dispose of them;
 - (iii) the transferee and the existing companies do not float their respective company's shares.

In recent years, an increasing number of companies have undergone restructuring to re-align their businesses to become more cost effective and efficient. To facilitate companies to restructure, the Minister has in the 2000 Budget Statement announced that the scope of section 15 will be extended to cover restructurings of companies that may not meet the above requirements. However the extended coverage is only for public-listed companies and companies that intend to list or further list their shares after the restructuring. These reliefs will apply to instruments executed on or after 1 Jul 2000.

Extended Relief Under Section 15 For Corporate Restructurings

- 1) Lifting of 2 year moratorium on flotation of shares by transferee and existing companies

Companies which restructure for the purpose of an IPO or float further shares after the restructuring may now obtain relief under section 15 if

1. the total shares floated by the company does not exceed SGX minimum requirement for a mainboard listing (present minimum threshold is 25% of the total issued ordinary share capital); and
 2. the shares are floated on the Singapore exchange (eg mainboard, Sesdaq) or cross-listed on the Singapore and a foreign exchange
- 2) Lifting of 2 year moratorium on disposal of consideration shares received by public shareholders from a re-structure

A listed company may undergo restructuring and disposes of an undertaking or its shares in a subsidiary. Section 15 requires the transferee company to issue its shares as consideration for the acquisition. A further requirement imposed on the person who received the consideration shares is the 2 year moratorium on the disposal of the consideration shares.

In the 2000 Budget Statement, the Minister for Finance announced that this requirement of the 2-year moratorium on the disposal of consideration shares by persons in receipt of the shares is lifted for consideration shares issued to the public shareholders. Public shareholders are those who subscribed and are allotted shares as a result of IPO/further listing or those who acquired shares from the market. Persons who had acquired shares in the existing company before IPO/further listing are not considered as public shareholders.

Application for the Extended Relief

The following information shall be submitted to the Commissioner of Stamp Duties when applying for this relief-

- copy of the restructuring agreement and other documents for which relief is sought
- copy of the latest audited accounts of the transferor
- copy of the memorandum and articles of association of the transferee company
- a graphical presentation of the structure of the companies within the group immediately before and after the restructuring
- copies of board minutes & resolutions of the transferor and transferee companies concerning the disposal /acquisition
- a statutory declaration made by a responsible officer. The statutory declaration shall contain the following information:

- total number of issued share capital of both the transferor, transferee and existing companies

- description of the scheme of restructuring and the purpose

- whether and how the conditions will be complied with

- if the company is going for IPO or further listing, provide the following information -

- in which market will the shares be issued
- total number of issued share capital immediately before the listing or further listing
- total number of shares that are held in the hands of public shareholders before the listing or further listing
- number of shares that will be listed or further listed
- name of all the shareholders immediately before the listing or
- name of all the shareholders (except public shareholders) immediately before further listing
- copy of the application to SGX for IPO or further listing
- copy of prospectus for IPO or further listing
- copies of board meetings and resolutions relating to the listing or further listing

- If consideration shares will be issued to shareholders of a listed company, state-

- total number of issued share capital immediately before the restructuring
- total number of shares that are held in the hands of public shareholders immediately before the restructuring
- name of all the shareholders (except public shareholders) immediately before the restructuring and the number of consideration shares that would be issued to each of them