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## BUDGET 2005

## STAMP DUTY CHANGES

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In his 2005 Budget Speech, the PM & Minister for Finance announced the following stamp duty changes:

1. <u>Refund of Stamp Duty on Aborted or Rescinded Sale & Purchase Agreement</u>

1.1 Currently a full refund of the stamp duty paid is allowed on rescinded Sale and Purchase Agreements relating to immovable property under section 22(6) of the Stamp Duties Act if the Sale and Purchase Agreements are rescinded under the grounds stated in that section. The grounds are:

(a) The vendor is unable to prove his title to the property;

(b) The purchaser, being a foreigner is unable to obtain approval from the Comptroller of Residential Property to acquire the property;

(c) The property is acquired or is proposed for acquisition by public authority;

(d) The purchase of the property is conditional upon permission by the competent authority to develop or sub-divide the property and such permission is refused;

(e) The vendor or purchaser fails to obtain approval from public authority to sell or purchase the property;

(f) The Commissioner of Building Control has made an order that the building is structurally unsound;

(g) Strata Titles Board refused an application for the sale of the property under section 84A, 84D or 84E of the Land Titles (Strata) Act (Cap 158).

1.2 With the changes announced in Budget 2005, a refund of the stamp duty paid in excess of $50 would be allowed for all bona fide rescinded Sales and Purchase Agreements on grounds other than those listed in paragraph 1.1[1]. The refund would exclude Sales and Purchase Agreements rescinded or annulled with a view to facilitate the disposition of the property by the purchaser to another person.

1.3 This change applies to Sale & Purchase Agreements rescinded on or after 18 February 2005.

[1] The purchaser may want to abort the transaction because of change of circumstances, such as (a) financial difficulties, e.g. retrenchment that arises after the purchase where he can no longer afford to buy the property, death of purchaser or joint purchaser; or (b) change of mind, where the purchases decides to get bigger unit, or exchange for a unit in a better location. Currently, a refund is not allowed if the agreement is aborted under such circumstances

## 2. Enhancements to Relief Granted under Section 15(1)(a) of the Stamp Duties Act – Amalgamation & Reconstruction of Companies

2.1 Currently, the documents[2] relating to the transfer of immovable property and shares when there is an amalgamation and reconstruction of companies are relieved from ad valorem stamp duty.

2.2 To facilitate mergers between financial institutions, the relief has been extended to include a transfer of the financial institutions' mortgage which is chargeable under Article 9(c) of the First Schedule to the Stamp Duties Act.

2.3 Share capital is defined as shares with voting rights and preference shares that are non-redeemable.

2.4 The above changes apply to any document executed on or after 18 February 2005.

## 3. Enhancements to Relief Granted under Section 15(1)(b) of the Stamp Duties Act – Transfer of Assets between Associated Companies

3.1 To facilitate mergers between financial institutions, the relief has been extended to include a transfer of the financial institutions' mortgage which is chargeable under Article 9(c) of the First Schedule to the Stamp Duties Act.

3.2 The amendment of the law to clarify the definition of share capital is similarly applied in the relief granted between associated companies.

3.3 Prior to Budget 2005, associated companies have to meet the following two conditions before the relief is granted:

(a) the transferee company is incorporated in Singapore or resident for income tax purposes within the meaning of section 2 of the ITA;

(b) the transferee company acquires the assets at open market price and the consideration is paid in cash or by an issue of shares in the transferee company.

Following the Budget 2005 announcement, the above conditions have been enhanced as follows:

(a) the transferee company can be a foreign company, i.e., incorporated outside Singapore or not resident in Singapore for income tax purposes;

(b) if the sale is between wholly owned companies, the transferee company can (i) acquire the assets based on net book value instead of open market value; and (ii) the consideration to be paid can be in the form of debt in addition to cash or shares in the transferee company.

[2] Documents referred to those chargeable under Article 3 (a) and (c) of the First Schedule to the Stamp Duties Act.

3.4 The above changes apply to any document executed on or after 18 February 2005.

## 4. Enquiries

For further clarification, please call our hotlines 63513697 or 63513698.