

立法會
Legislative Council

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**Paper for the House Committee Meeting
of the Legislative Council
on 20 October 2000**

**Legal Service Division Report on
Stamp Duty (Amendment) Bill 2000**

Object of the Bill

To amend the Stamp Duty Ordinance (Cap. 117) to exempt the stamp duty chargeable on a transfer of units relating to mandatory provident fund schemes registered with the Mandatory Provident Fund Schemes Authority under the Mandatory Provident Fund Schemes Ordinance (Cap. 485).

LegCo Brief Reference

2. FIN R 43/5/136 dated 29 September 2000 issued by the Finance Bureau.

Date of First Reading

3. 18 October 2000.

Background

4. Under the Mandatory Provident Fund Schemes Ordinance (Cap. 485) ("the MPF Ordinance"), except for the exempt persons, all employees of 18 to 64 years of age who have been employed under a continuous contract of employment for a period of not less than 60 days and self-employed persons aged below 65 are required to contribute to mandatory provident fund ("MPF") schemes registered with the Mandatory Provident Fund Schemes Authority ("MPFA") with effect from 1 December 2000. An MPF scheme is governed by a trust and provides for the payment of pecuniary benefits to members of the scheme when they reach the retirement age of 65 or on the occurrence of any other prescribed event, namely, early retirement, total incapacity, permanent departure from Hong Kong, or death. A registered MPF scheme may consist of one or more constituent funds and the funds comprising a constituent fund may be invested in a pooled investment fund approved by the MPFA.

5. An MPF scheme for the purposes of the MPF Ordinance belongs to a "unit trust scheme" as defined in the Stamp Duty Ordinance (Cap. 117). Accordingly, the stamp duty requirements in respect of unit trust schemes under the Stamp Duty Ordinances are applicable to MPF schemes. The effect of this is as follows:

- (a) Contract notes in respect of sale and purchase of units under an MPF scheme are chargeable with the *ad valorem* stamp duty, currently at the rate of 0.1125% on each note. However, *ad valorem* stamp duty is exempted on sale of units back to the unit trust or the fund manager on redemption of units by scheme members and indirect allotment of units by constituent funds to scheme members through the fund managers;
- (b) the instruments effecting the redemption of units in constituent funds by scheme members and the transfers of units by fund managers to scheme members on an indirect allotment of units are chargeable with the fixed stamp duty of HK\$5 per instrument of transfer; and
- (c) the instruments of transfer referred to in paragraph (b) above are required to be endorsed as not chargeable with *ad valorem* stamp duty in order to become a duly stamped instrument which can be received in evidence in civil proceedings and can be acted upon, filed or registered by public officers and body corporate.

Comments

6. The Bill seeks to streamline the procedures involved in investment transactions under the MPF schemes and alleviate the administrative burden of both the trustees and fund managers for complying with the stamp duty requirements under the Stamp Duty Ordinance. It adds a new section 47A to the Stamp Duty Ordinance which provides that certain types of unit transfers under the MPF schemes be exempt from the requirement to pay the fixed stamp duty and the requirement to submit the instruments of transfer to the Collector of Stamp Revenue for endorsement. The proposed exemption covers the following types of unit transfers:

- (a) indirect allotment of units by the constituent funds under the MPF schemes to the MPF scheme members through the fund managers;
- (b) redemption of units in constituent funds by MPF scheme members;
- (c) indirect allotment of units by the approved pooled investment funds to the constituent funds under the MPF schemes through the fund managers; and
- (d) redemption of units in approved pooled investment funds by the constituent funds under the MPF schemes.

7. If enacted, the Bill will come into operation on 1 December 2000 to tie in with the commencement date of the provisions of the MPF Ordinance which relate to the requirement to make contributions to MPF schemes.

Public Consultation

8. The proposed amendments have received the support of the Hong Kong Investment Funds Association.

Consultation with the LegCo Panel

9. No consultation with any LegCo Panel on the details of the Bill has been carried out.

Conclusion

10. The legal and drafting aspects of the Bill are in order. Subject to Members' views, the Bill is ready for resumption of Second Reading debate.

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