

## **LEGISLATIVE COUNCIL BRIEF**

Inland Revenue Ordinance  
(Chapter 112)  
Stamp Duty Ordinance  
(Chapter 117)

### **REVENUE (NO. 3) BILL 2003**

#### **INTRODUCTION**

A At the meeting of the Executive Council on 24 June 2003, the Council ADVISED and the Chief Executive ORDERED that the Revenue (No. 3) Bill 2003, at Annex A, should be introduced into the Legislative Council to implement the tax concession measures announced in the 2003-04 Budget.

#### **JUSTIFICATIONS**

##### **Debt instruments**

2. The proposal to extend the current 50% profits tax concession for trading profits and interest income derived from qualifying debt instruments (QDIs) with original maturity period of not less than five years to QDIs with original maturity period of not less than three years and the proposal to enhance the profits tax concession from 50% to 100% for profits and interest income derived from QDIs with an original maturity of at least seven years will bring about the following benefits -

- (a) the extended and enhanced concession will lead to increase in demand for debt securities and help promote development of the debt market;
- (b) the granting of 100% tax concession to income earned on QDIs with an original maturity of at least seven years will encourage the supply and trading activities of long-term debt instruments, thereby increasing the efficiency of channelling long-term savings into long-term investments, and

- (c) a deep and well-functioning bond market will lead to significant efficiency gains in the economy and support the growth in the financial service industry, and will broaden the channels of financial intermediation in Hong Kong commensurate with its status as an international financial centre.

### **Fund Management**

3. The existing requirement that a \$5 fixed charge duty should be paid on all unit trusts transfers including redemptions was put in for control against abuse to the ad valorem duty exemption. IRD has assessed the proposal to remove this fixed charge duty for subscriptions to and redemptions of unit trusts in Hong Kong and has come to a view that given the existing legislation already empowers the department to arrange for inspection of the books of the trustees of the funds, the stamping requirement and hence the fixed duty is not absolutely necessary for control purpose.

4. The removal of this requirement will help reduce the compliance cost of the industry. Also such requirement does not exist for overseas unit trust funds because their units are not Hong Kong Stock and the proposed exemption will make the local funds more competitive. The revenue implication of the exemption will be minimal.

### **OTHER OPTIONS**

5. The proposed tax concessions can only be implemented by amending the Inland Revenue Ordinance (Cap. 112) (IRO) and the Stamp Duty Ordinance (Cap. 117)(SDO). There are no other options.

### **THE BILL**

- 6. The major provisions of the Bill are as follows -
  - (a) **Clauses 3 and 4** amend the IRO to the effect that profits arising from a debt instrument having a maturity period of less than 7 years but not less than 3 years are only chargeable to profits tax at half of the applicable rate and those arising from a debt instrument having a maturity period of not less than 7 years are exempt from profits tax.
  - (b) **Clause 7** amends the SDO to the effect that instruments of transfer relating to the issue of units under unit trust schemes by fund managers or redemption of units under

unit trust schemes are exempt from the fixed duty of \$5 under head 2(4) of the First Schedule to that Ordinance.

B 7. The existing provisions proposed to be amended are at Annex B.

### **LEGISLATIVE TIMETABLE**

8. The legislative timetable will be -

Publication in the Gazette	27 June 2003
First Reading and commencement of Second Reading debate	9 July 2003
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

### **IMPLICATIONS OF THE PROPOSAL**

9. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The proposal will not affect the binding effect of the existing provisions of the IRO and the SDO and their subsidiary legislation. It has no productivity, environmental or civil service implications.

### **Financial Implications**

10. The proposal to extend and enhance the profits tax concession for QDIs is estimated to cost the Government \$17 million a year. The proposal to exempt subscriptions to and redemptions of units of unit trust funds from the \$5 fixed duty will have minimal impact on government revenue.

11. On the expenditure side, the proposal has minimal impact on the workload of the Inland Revenue Department and therefore will not give rise to additional financial implications for the Government.

### **Economic Implications**

12. The proposed legislative amendments are to implement the tax concession measures announced in the 2003-04 Budget. The concessions will help to develop the bond market and the local fund industry and increase the efficiency of the Hong Kong economy.

## **Sustainability Implications**

13. The proposal would bring about positive impact on the development of the bond market, and contribute to the sustainability principle of achieving a competitive and prosperous market-based economy.

## **PUBLIC CONSULTATION**

14. The Financial Secretary conducted consultations with Legislative Council Members during the formulation of the Budget. In addition, proposals of professional bodies and the general public have also been taken into account.

## **PUBLICITY**

15. We will issue a press release. A spokesman will be available to answer media and public enquiries.

## **BACKGROUND**

### **Debt instruments**

16. Interest income and trading profits (the profits from sale or other disposal) of debt instruments issued and traded in Hong Kong are chargeable to profits tax under the IRO. Tax concessions have been granted in respect of income derived from certain debt instruments with the policy objective of attracting overseas issuers to Hong Kong, enlarging our debt market, and enhancing our competitiveness vis-à-vis other financial centres in the region.

17. At present, interest income and trading profits in respect of the following categories of debt instruments enjoy a 100% exemption from profits tax - Government bonds, Exchange Fund debt instruments, and Hong Kong dollar denominated multilateral agency debt instruments. Interest income and trading profits derived from high-quality, long-term qualifying debt instruments issued in Hong Kong issued by specified Statutory Corporations and Government-owned Corporations (SCGC), other corporations as well as financial institutions which satisfy certain criteria (QDIs) enjoy a tax concession at 50% from profits tax. The criteria in respect of SCGC issued instruments include -

- (a) being in respect of a debt issue lodged with and cleared by the Central Money Market Unit (CMU) operated by the Hong Kong Monetary Authority (HKMA);

- (b) having an original maturity of not less than five years;
- (c) having a minimum denomination of Hong Kong \$50,000 or its equivalent in a foreign currency; and
- (d) being issued to the public in Hong Kong.

18. The criteria in respect of debt instruments issued by other corporations and financial institutions include all the criteria that apply to SCGC issued instruments as listed above as well as an additional criterion, which is to have a credit rating acceptable to HKMA. This credit rating is currently set at minimum BBB - from Standard and Poor's.

19. In the 2003-04 Budget, the Financial Secretary proposed to reduce the eligible maturity period for the 50% profits tax concession on trading profits and interest income derived from QDIs from five years to three years, and grant a 100% concession on profits tax for QDIs with a maturity period of seven years or more. The IRO needs to be amended to implement these proposals.

### **Fund Management**

20. Under the SDO, any person who effects any sale or purchase of Hong Kong stock (i.e. stock the transfer of which is required to be registered in Hong Kong) as principal or agent is required to make and execute a contract note and have it stamped with the appropriate duty within two days of the transaction. In addition, for registered transfers, the person also needs to execute an instrument of transfer.

21. Currently, a duty at the fixed rate of \$5 is charged on each instrument of Hong Kong stock transfer; and additionally, an ad valorem stamp duty at the rate of 0.1% of the consideration (or 0.2% for the round transaction) per contract note is charged where the transfer is pursuant to a sale and purchase.

22. For unit trust schemes which are Hong Kong stock, most transfers attract only the fixed duty but not the ad valorem duty because most of the transfers are effected through issuance of new units and cancellation of existing units by the manager of the scheme which is not regarded as sale and purchase and hence does not attract ad valorem duty, rather than through exchange of existing units between investors. For overseas unit trust funds which are not Hong Kong Stock, stamp duty does not apply.

23. The Financial Secretary proposed in the 2003-04 Budget to grant exemption of the fixed stamp duty of \$5 to the subscriptions to and redemptions of units of unit trust funds. We need to amend the SDO to implement this proposal.

**ENQUIRY**

24. In case of enquiries about this Brief, please contact Miss Erica NG, Principal Assistant Secretary for Financial Services and the Treasury (Treasury)(Revenue), at 2810 2370.

**Financial Services and the Treasury Buresau**

**25 June 2003**

**REVENUE (NO. 3) BILL 2003**

A BILL

To

Amend certain Ordinances to give effect to some of the proposals in the Budget introduced by the Government for the 2003-2004 financial year.

Enacted by the Legislative Council.

**1. Short title**

This Ordinance may be cited as the Revenue (No. 3) Ordinance 2003.

**2. Application**

Sections 3 to 6 apply in relation to the year of assessment commencing on 1 April 2003 and to all subsequent years of assessment.

**Inland Revenue Ordinance**

**3. Qualifying debt instruments**

Section 14A of the Inland Revenue Ordinance (Cap. 112) is amended –

- (a) in subsection (1)(a) and (b), by adding “medium term” before “debt instrument”;
- (b) in subsection (4) –
  - (i) by repealing “In this Part, “debt” and substituting –  
“In this section –  
“debt”;
  - (ii) in the definition of “debt instrument” –
    - (A) by repealing paragraph (c);
    - (B) in paragraph (f), by repealing “subsection” and substituting “definition”;
    - (C) in paragraph (g), by repealing the full stop at the end and substituting a semicolon;
  - (iii) by adding –

““medium term debt instrument” (中期債務票據) means –

- (a) a debt instrument that –
  - (i) is issued before 5 March 2003;
  - (ii) has an original maturity of not less than 5 years or is undated; and
  - (iii) cannot be redeemed within 5 years from the date of its issue;or
- (b) a debt instrument that –
  - (i) is issued on or after 5 March 2003;
  - (ii) has an original maturity of less than 7 years but not less than 3 years or is undated; and
  - (iii) can be redeemed within 7 years from the date of its issue but not within the first 3 years.”;
- (c) in subsection (5) –
  - (i) in paragraph (a), by repealing “subsection (4)(b)” and substituting “paragraph (b) of that definition”;

- (ii) in paragraph (b), by repealing “subsection (4)(d)(i) or (ii), as the case may be” and substituting “paragraph (d)(i) or (ii), as the case may be, of that definition”.

#### **4. Exclusion of certain profits from tax**

Section 26A is amended –

- (a) in subsection (1) –
  - (i) in paragraph (f), by repealing “and” at the end;
  - (ii) in paragraph (g), by repealing the comma at the end and substituting a semicolon;
  - (iii) by adding –
    - “(h) interest paid or payable on a long term debt instrument; and
    - (i) any gain or profit on the sale or other disposal or on the redemption on maturity or presentment of a long term debt instrument,”;
- (b) in subsection (2), by adding –
  - ““long term debt instrument” (長期債務票據) means a debt instrument as defined in section 14A that –
    - (a) is issued on or after 5 March 2003;
    - (b) has an original maturity of not less than 7 years or is undated; and
    - (c) cannot be redeemed within 7 years from the date of its issue;”.

## **Inland Revenue (Qualifying Debt Instruments) Order**

### **5. Credit rating requirement not to apply**

Section 1 of the Inland Revenue (Qualifying Debt Instruments) Order (Cap. 112 sub. leg. M) is amended by repealing “section 14A(4)(b)” and substituting “paragraph (b) of the definition of “debt instrument” in section 14A(4)”.

### **6. Minimum denomination**

Section 2 is amended by repealing “section 14A(4)(d)(i)” and substituting “paragraph (d)(i) of the definition of “debt instrument” in section 14A(4)”.

## **Stamp Duty Ordinance**

### **7. Section added**

The Stamp Duty Ordinance (Cap. 117) is amended by adding in Part V –

**“47B. Instruments of transfer relating to  
indirect allotment or redemption  
of units to be exempt**

(1) Where a person is deemed under section 30(3) to transfer a unit under a unit trust scheme and, in relation to that transfer, an instrument is deemed under that section to be a transfer by way of sale falling within head 2(4) in the First Schedule, if that transfer is one to which section 19(1) does not apply by virtue of section 19(1A)(b)(ii), that instrument is not chargeable with stamp duty.

(2) Where a person is deemed under section 30(4) to transfer a unit under a unit trust scheme, if that transfer is one to which section 19(1) does not apply by virtue of section 19(1A)(a), the instrument that is deemed under section 30(4) to be a transfer of the unit is not chargeable with stamp duty.

(3) Where a person is deemed under section 30(5) to transfer a unit under a unit trust scheme, if that transfer is one to which section 19(1)

does not apply by virtue of section 19(1A)(b)(i), the instrument that is deemed under section 30(5) to be a transfer of the unit is not chargeable with stamp duty.”.

#### **8. First Schedule amended**

The First Schedule is amended –

- (a) within the square brackets, by repealing “& 45” and substituting “, 45 & 47B”;
- (b) in head 2(4), by repealing “and 47A” and substituting “, 47A and 47B”.

#### **Explanatory Memorandum**

The purpose of this Bill is to amend certain Ordinances to give effect to some of the proposals in the Budget introduced by the Government for the 2003-2004 financial year.

2. Clauses 3 and 4 amend the Inland Revenue Ordinance (Cap. 112) to the effect that profits arising from a debt instrument having a maturity period of less than 7 years but not less than 3 years are only chargeable to profits tax at one-half of the applicable rate and those arising from a debt instrument having a maturity period of not less than 7 years are exempt from profits tax.

3. Clause 7 amends the Stamp Duty Ordinance (Cap. 117) to the effect that instruments of transfer relating to the issue of units under unit trust schemes by fund managers or redemption of units under unit trust schemes are exempt from the fixed duty of \$5 under head 2(4) of the First Schedule to that Ordinance.

Chapter:	112	INLAND REVENUE ORDINANCE	Gazette Number	Version Date
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Section:	14A	Qualifying debt instruments	L.N. 90 of 1999; 44 of 1999	01/04/1999
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(1) For the purposes of this Part the assessable profits of a person for sums received by or accrued to the person as-

- (a) interest paid or payable on a debt instrument; and
- (b) any gain or profit on the sale or other disposal or on the redemption on maturity or presentment of the debt instrument,

are chargeable to tax under this Part at one-half of the rate specified in Schedule 1 or Schedule 8, as the case may be.

(2)-(3) (Repealed 32 of 1998 s. 4)

(4) In this Part, "debt instrument" (債務票據) means an instrument specified in Part I of Schedule 6 that-

- (a) is in respect of a debt issue which in its entirety has been lodged with and cleared by the Central Moneymarket Unit operated by the Monetary Authority;
- (b) subject to subsection (5), is issued by a person and has at all relevant times a credit rating acceptable to the Monetary Authority from a credit rating agency recognized by the Monetary Authority;
- (c) has an original maturity of not less than 5 years or is undated and cannot be redeemed within 5 years;
- (d) subject to subsection (5), has-
  - (i) where it is issued before 1 April 1999, a minimum denomination of \$500000 or its equivalent in a foreign currency; or
  - (ii) where it is issued on or after 1 April 1999, a minimum denomination of \$50000 or its equivalent in a foreign currency; (Replaced L.N. 90 of 1999 and 44 of 1999 s. 11)
- (e) is issued to the public in Hong Kong;
- (f) if it is a scripless instrument, it is one that would qualify in the terms of this subsection if it were in a physical form;
- (g) is issued on or after the commencement of this section.

(5) For the purposes of the definition of "debt instrument" in subsection (4), the Financial Secretary may by order-

- (a) declare that the provisions relating to a credit rating mentioned in subsection (4)(b) do not apply;
- (b) fix an amount of minimum denomination different from the amount mentioned in subsection (4)(d)(i) or (ii), as the case may be, (Amended L.N. 90 of 1999 and 44 of 1999 s. 11)

in respect of a debt instrument issued by such person as may be specified in the order.

(Added 25 of 1996 s. 2)

Section:	26A	Exclusion of certain profits from tax	L.N. 12 of 2003	01/04/2003
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(1) For the purposes of this Part-

- (a) interest paid or payable on a Tax Reserve Certificate issued by the Commissioner;
- (b) interest paid or payable on a bond issued under the Loans Ordinance (Cap 61) or

- the Loans (Government Bonds) Ordinance (Cap 64); (Amended 48 of 1991 s. 2)
- (c) any profit on the sale or other disposal or on the redemption on maturity or presentment of such a bond; (Amended 48 of 1991 s. 2)
- (d) interest paid or payable on an Exchange Fund debt instrument; (Added 9 of 1990 s. 2. Amended 17 of 1992 s. 2)
- (e) any profit on the sale or other disposal or on the redemption on maturity or presentment of such an Exchange Fund debt instrument; (Added 9 of 1990 s. 2)
- (f) interest paid or payable on a Hong Kong dollar denominated multilateral agency debt instrument; and (Added 17 of 1992 s. 2)
- (g) any profit on the sale or other disposal or on the redemption or maturity or presentment of such a Hong Kong dollar denominated multilateral agency debt instrument, (Added 17 of 1992 s. 2)

shall not be included in the profits of any corporation or other person chargeable to tax under this Part. (Amended 9 of 1990 s. 2)

- (1A)(a) For the purposes of this Part, there shall not be included in the profits to which a person is chargeable to tax under this Part any sums received or accrued in respect of a specified investment scheme by or to the person as-
  - (i) a person chargeable to tax under this Part in respect of a mutual fund, unit trust or similar investment scheme that is authorized as a collective investment scheme under section 104 of the Securities and Futures Ordinance (Cap 571); or (Replaced 5 of 2002 s. 407(2))
  - (ii) a person chargeable to tax under this Part in respect of a mutual fund, unit trust or similar investment scheme where the Commissioner is satisfied that the mutual fund, unit trust or investment scheme is a bona fide widely held investment scheme which complies with the requirements of a supervisory authority within an acceptable regulatory regime. (Replaced 5 of 2002 s. 407(2))
  - (iii) (Repealed 5 of 2002 s. 407(2))
  - (iv) (Repealed 5 of 2002 s. 407(2))
  - (v) (Repealed 5 of 2002 s. 407(2))
- (b) For the purposes of paragraph (a), a specified investment scheme is an investment scheme carried on-
  - (i) for the purposes for which the investment scheme was stated to be carried on in the constitutive documents approved in respect of the investment scheme by-
    - (A) in the case of paragraph (a)(i), the Commission; (Amended 5 of 2002 s. 407(2))
    - (B) in the case of paragraph (a)(ii), the supervisory authority within the acceptable regulatory regime; and (Amended 5 of 2002 s. 407(2))
  - (ii) in accordance with-
    - (A) in the case of paragraph (a)(i), the requirements of the Commission; (Amended 5 of 2002 s. 407(2))
    - (B) in the case of paragraph (a)(ii), the requirements of the supervisory authority within the acceptable regulatory regime. (Replaced 32 of 1998 s. 17. Amended 5 of 2002 s. 407(2))

(2) In this section-

"Commission" (證監會) means the Securities and Futures Commission referred to in section 3(1) of the Securities and Futures Ordinance (Cap 571); (Added 32 of 1998 s. 17. Amended 5 of 2002 s. 407(2))

"computer" (電腦) means any device for storing, processing or retrieving information;

"Exchange Fund" (外匯基金) means the fund of that name established under section 3(1) of the Exchange Fund Ordinance (Cap 66);

"Exchange Fund debt instrument" (外匯基金債務票據) means any instrument (whether described as an "Exchange Fund Bill" or otherwise) issued under the Exchange Fund

Ordinance (Cap 66) evidencing the deposit of a sum of money in Hong Kong currency with the Monetary Authority for the account of the Exchange Fund, being an instrument which recognizes an obligation to pay a stated amount, with or without interest, and which is transferable in a manner specified by that Authority; (Amended 82 of 1992 s. 9)

"instrument" (票據) includes-

- (a) every written document;
- (b) any information recorded in the form of an entry in a book of account; and
- (c) any information which is recorded (whether by means of a computer or otherwise) in a non-legible form but is capable of being reproduced in a legible form;

"multilateral agency debt instrument" (多邊代理機構債務票據) means an instrument specified in Part I of Schedule 6 issued by a body specified in Part II of that Schedule; (Added 17 of 1992 s. 2)

"mutual fund" (互惠基金) means any arrangement made for the purpose, or having the effect, of providing facilities for investment in shares in a corporation which is or hold itself out as being engaged primarily in the business of investing, reinvesting or trading in securities and which is offering for sale or has outstanding any redeemable shares of which it is the issuer; (Replaced 5 of 2002 s. 407(2))

"unit trust" (單位信託) means any arrangement made for the purpose, or having the effect, of providing facilities for the participation by persons, as beneficiaries under a trust, in profits or income arising from the acquisition, holding, management or disposal of securities or any other property whatsoever. (Replaced 5 of 2002 s. 407(2))

(3) The Legislative Council may by resolution amend Schedule 6. (Added 17 of 1992 s.

2)

(Replaced 62 of 1975 s. 3. Amended 32 of 1998 s. 17)

Chapter:	112M	INLAND REVENUE (QUALIFYING DEBT INSTRUMENTS) ORDER	Gazette Number	Version Date
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Section:	1	Credit rating requirement not to apply	L.N. 136 of 2000	30/06/2000
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The provisions relating to credit rating mentioned in section 14A(4)(b) of the Ordinance do not apply to debt instruments issued by the statutory corporations or corporations wholly- or partly-owned by the Government set out in the Schedule.

(Enacted 1996. L.N. 73 of 1998; 13 of 2000 s. 65)

Section:	2	Minimum denomination	L.N. 136 of 2000	30/06/2000
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The minimum denomination mentioned in section 14A(4)(d)(i) of the Ordinance for debt instruments issued by the statutory corporations or corporations wholly- or partly-owned by the Government set out in the Schedule is \$50000 or its equivalent in a foreign currency.

(Enacted 1996. L.N. 73 of 1998; L.N. 90 of 1999 and 44 of 1999 s. 12; 13 of 2000 s. 65)

Chapter:	117	STAMP DUTY ORDINANCE	Gazette Number	Version Date
Schedule:	1		L.N. 178 of 2001	01/09/2001

[sections 4, 5, 5A, 19, 20,  
29, 29A, 29C, 29D,  
29G, 29H, 29I,  
30 & 45]

Nature of Instrument

- (A) Stamp Duty
- (B) Time for stamping
- (C) Persons liable

HEAD 1: IMMOVABLE PROPERTY IN HONG KONG

Agreement for Lease,

See LEASE and section 16

Agreement or Contract for Sale of equitable interest,

See AGREEMENT FOR SALE and section 29E,  
and CONVEYANCE ON SALE and section 26

(1) CONVEYANCE ON SALE

- |   |  |
|---|--|
| (a) where the amount or value of the consideration does not exceed \$1000000 and the instrument is certified in accordance with section 29 at \$1000000                       | (A)(a) \$100   |
| (b) where the amount or value of the consideration exceeds \$1000000 but does not exceed \$1080000 and the instrument is certified in accordance with section 29 at \$1080000 | (b) \$100 plus 10% of the amount by which the amount or value of the consideration exceeds \$1000000 (Replaced L.N. 90 of 1999 and 44 of 1999 s. 22)   |
| (c) where the amount or value of the consideration exceeds \$1080000 but does not exceed \$2000000 and the instrument is certified in accordance with section 29 at \$2000000 | (c) 0.75% of the amount or value of the consideration (Replaced L.N. 90 of 1999 and 44 of 1999 s. 22)  |
| (d) where the amount or value of the consideration exceeds \$2000000 but does not exceed \$2176470 and the instrument is certified in accordance with section 29 at \$2176470 | (d) \$15000 plus 10% of the amount by which the amount or value of the consideration exceeds \$2000000 (Replaced L.N. 90 of 1999 and 44 of 1999 s. 22) |
| (e) where the amount or value of the consideration exceeds \$2176470 but does not exceed \$3000000 and the instrument is certified in accordance with section 29 at \$3000000 | (e) 1.5% of the amount or value of the consideration (Replaced L.N. 90 of 1999 and 44 of 1999 s. 22)   |
| (f) where the amount or value of the consideration exceeds \$3000000 but does not exceed \$3290320 and the instrument is certified in accordance with section 29 at \$3290320 | (f) \$45000 plus 10% of the amount by which the amount or value of the consideration exceeds \$3000000 (Replaced L.N. 90 of 1999 and 44 of 1999 s. 22) |
| (g) where the amount or value of the  | (g) 2.25% of the amount or   |

consideration exceeds \$3290320 but does not exceed \$4000000 and the instrument is certified in accordance with section 29 at \$4000000

value of the consideration  
(Replaced L.N. 90 of 1999  
and 44 of 1999 s. 22)

(h) where the amount or value of the consideration exceeds \$4000000 but does not exceed \$4428570 and the instrument is certified in accordance with section 29 at \$4428570

(h) \$90000 plus 10% of the amount by which the amount or value of the consideration exceeds \$4000000 (Replaced L.N. 90 of 1999 and 44 of 1999 s. 22)

(i) where the amount or value of the consideration exceeds \$4428570 but does not exceed \$6000000 and the instrument is certified in accordance with section 29 at \$6000000

(i) 3% of the amount or value of the consideration (Replaced L.N. 90 of 1999 and 44 of 1999 s. 22)

(j) where the amount or value of the consideration exceeds \$6000000 but does not exceed \$6720000 and the instrument is certified in accordance with section 29 at \$6720000

(j) \$180000 plus 10% of the amount by which the amount or value of the consideration exceeds \$6000000 (Added L.N. 90 of 1999 and 44 of 1999 s. 22)

(k) in any other case

(k) 3.75% of the amount or value of the consideration (Added L.N. 90 of 1999 and 44 of 1999 s. 22)

(B) 30 days after the execution; but see Note 2 to this sub-head

(C) All parties, and all other persons executing; but see Note 2 to this sub-head (Replaced 36 of 1994 s. 3)

And see sections 2, 4, 22, 23, 24, 25, 26, 27, 28, 29, 39, 43, 44 and 45

Note 1

This sub-head shall apply in relation to the stamp duty chargeable by reference to it by virtue of sub-head (2)(a), in a case where part of the consideration for a lease consists of rent, as if paragraphs (a) to (j) and the words "in any other case" in paragraph (k) were omitted (Amended L.N. 90 of 1999 and 44 of 1999 s. 22)

Note 2

In the case of a vesting order consequential upon an order for sale or partition or a foreclosure order, the time for stamping shall be before the order is signed by the Registrar and the persons

liable shall be the persons obtaining the order  
Note 1

This sub-head shall apply in relation to the stamp duty chargeable by reference to it by virtue of sub-head (2)(a), in a case where part of the consideration for a lease consists of rent, as if paragraphs (a) to (h) and the words "in any other case" in paragraph (i) were omitted

Note 3

In the case of a foreclosure order, the stamp duty chargeable thereon shall not exceed the stamp duty which would be chargeable thereon by reference to the value of the property to which the order relates

Note 4

A foreclosure order shall not be duly stamped unless the Collector has stamped it under section 13(3)(b)

Note 5

In the case of a conveyance on sale of residential property executed after a chargeable agreement for sale has been made in respect of that property, this sub-head is subject to section 29D (Added 8 of 1992 s. 6)

Note 6

(Repealed 33 of 1998 s. 11)

Exchange, Instruments effecting-see section 25(7)

#### (1A) AGREEMENT FOR SALE

- |  |  |
|--|--|
| (a) where the amount or value of the consideration does not exceed \$1000000 and the instrument is certified in accordance with section 29G at \$1000000                       | (A)(a) \$100   |
| (b) where the amount or value of the consideration exceeds \$1000000 but does not exceed \$1080000 and the instrument is certified in accordance with section 29G at \$1080000 | (b) \$100 plus 10% of the amount by which the amount or value of the consideration exceeds \$1000000 (Replaced L.N. 90 of 1999 and 44 of 1999 s. 22)   |
| (c) where the amount or value of the consideration exceeds \$1080000 but does not exceed \$2000000 and the instrument is certified in accordance with section 29G at \$2000000 | (c) 0.75% of the amount or value of the consideration (Replaced L.N. 90 of 1999 and 44 of 1999 s. 22)  |
| (d) where the amount or value of the consideration exceeds \$2000000 but does not exceed \$2176470 and the instrument is certified in accordance with section 29G at \$2176470 | (d) \$15000 plus 10% of the amount by which the amount or value of the consideration exceeds \$2000000 (Replaced L.N. 90 of 1999 and 44 of 1999 s. 22) |

- |  |  |
|--|--|
| (e) where the amount or value of the consideration exceeds \$2176470 but does not exceed \$3000000 and the instrument is certified in accordance with section 29G at \$3000000 | (e) 1.5% of the amount or value of the consideration (Replaced L.N. 90 of 1999 and 44 of 1999 s. 22)   |
| (f) where the amount or value of the consideration exceeds \$3000000 but does not exceed \$3290320 and the instrument is certified in accordance with section 29G at \$3290320 | (f) \$45000 plus 10% of the amount by which the amount or value of the consideration exceeds \$3000000 (Replaced L.N. 90 of 1999 and 44 of 1999 s. 22) |
| (g) where the amount or value of the consideration exceeds \$3290320 but does not exceed \$4000000 and the instrument is certified in accordance with section 29G at \$4000000 | (g) 2.25% of the amount or value of the consideration (Replaced L.N. 90 of 1999 and 44 of 1999 s. 22)  |
| (h) where the amount or value of the consideration exceeds \$4000000 but does not exceed \$4428570 and the instrument is certified in accordance with section 29G at \$4428570 | (h) \$90000 plus 10% of the amount by which the amount or value of the consideration exceeds \$4000000 (Replaced L.N. 90 of 1999 and 44 of 1999 s. 22) |
| (i) where the amount or value of the consideration exceeds \$4428570 but does not exceed \$6000000 and the instrument is certified in accordance with section 29G at \$6000000 | (i) 3% of the amount or value of the consideration (Replaced L.N. 90 of 1999 and 44 of 1999 s. 22)   |
| (j) where the amount or value of the consideration exceeds \$6000000 but does not exceed \$6720000 and the instrument is certified in accordance with section 29G at \$6720000 | (j) \$180000 plus 10% of the amount by which the amount or value of the consideration exceeds \$6000000 (Added L.N. 90 of 1999 and 44 of 1999 s. 22)   |
| (k) in any other case  | (k) 3.75% of the amount or value of the consideration (Added L.N. 90 of 1999 and 44 of 1999 s. 22)   |

\*(B) 30 days after the relevant date (within the meaning of section 29B(3)); but see section 29C(11) and Notes 2 and 3 to this sub-head (Amended L.N. 90 of 1999 and 44 of 1999 s. 22)

(C) All parties except a party who on the relevant date (within the

meaning of section 29B(3))  
does not know that the  
agreement affects him, and all  
other persons executing  
(Replaced 36 of 1994 s. 3)

And see section 4 and Part IIIA

Note 1

This sub-head does not apply to an agreement for sale in respect of non-residential property (see section 29A(5))

Note 2

If, within the first 14 days of the time for stamping, an agreement for sale is superseded by another agreement for sale made between the same parties and on the same terms executed in accordance with section 29B(1), and containing the matters specified in section 29B(5)-

(aa) for the purposes of Part IIIA and this sub-head, the second-mentioned agreement is deemed to be made on the relevant date (within the meaning of section 29B(3)); (Added L.N. 90 of 1999 and 44 of 1999 s. 22)

\*(a) notwithstanding paragraph (aa) but subject to section 29C(11), the time for stamping the second-mentioned agreement is not later than 30 days after it was executed; and (Amended L.N. 90 of 1999 and 44 of 1999 s. 22)

\*(b) if the second-mentioned agreement is duly stamped or stamped under section 5(1) or 13(2), or is endorsed under section 29C(13)(a), the obligation to stamp any preceding agreement between the same parties and on the same terms is discharged (Amended L.N. 90 of 1999 and 44 of 1999 s. 22)

\*Note 3

Subject to Note 2, if 2 or more agreements for sale are made between the same parties and on the same terms-

(a) for the purposes of Part IIIA and this sub-head, all of the agreements are deemed to be made on the relevant date (within the meaning of section 29B(3)); and

(b) where any of the agreements is duly stamped or stamped under section 5(1) or 13(2), or is endorsed under section 29C(13)(a)-

(i) the other agreements are each chargeable with stamp duty of \$100; and

(ii) notwithstanding paragraph (a) and section 29C(11), the time for stamping each of the other agreements is not later than 30 days after it was executed (Replaced L.N. 90 of 1999 and 44 of 1999 s. 22)

Note 4

Where 2 agreements for sale are made in respect

of the same, or part of the same, property and involve a common purchaser (but are not made between the same parties), this sub-head is subject to section 29C(5)

Note 5

For the purposes of Notes 2, 3 and 4, a person and a parent, spouse or child of that person shall be treated as the same person (Added 8 of 1992 s. 6)

Note 6

(Repealed 33 of 1998 s. 11)

(2) LEASE

- |  |   |
|--|---|
| (a) where the consideration or any part of the consideration, moving either to the lessor or to any other person, consists of any money, stock or security | (A) The same duty as on a conveyance on sale for the same consideration (see Note 1 to sub-head (1))<br>(B) 30 days after execution<br>(C) All parties, and all other persons executing |
| (b) where the consideration or any part of the consideration is any rent   |   |
| (i) where the term is not defined or is uncertain;   | (A) (i) 25 cents for every \$100 or part thereof of the yearly or average yearly rent   |
| (ii) where the term specified in the lease does not exceed one year;   | (ii) 25 cents for every \$100 or part thereof of the total rent payable over the term of the lease  |
| (iii) where the term specified in the lease exceeds one year but does not exceed three years;  | (iii) 50 cents for every \$100 or part thereof of the yearly or average yearly rent   |
| (iv) where the term specified in the lease exceeds three years   | (iv) \$1 for every \$100 or part thereof of the yearly or average yearly rent   |
| (c) Lease executed in pursuance of a duly stamped agreement for lease  | (B) 30 days after execution<br>(C) All parties, and all other persons executing<br>(A) \$3<br>(B) 30 days after execution<br>(C) All parties, and all other persons executing           |

And see sections 2, 16, 17, 27, 39, 42 and 43

Partition, Instruments effecting-see section 25(7)

Voluntary Chargeable Agreements for Sale-see section 29F (Added 8 of 1992 s. 6)

Voluntary Disposition inter vivos - see section 27

HEAD 2: HONG KONG STOCK

- |  |  |
|--|--|
| (1) CONTRACT NOTE for the sale or purchase of any Hong Kong stock not being jobbing business on every note required to be made under section 19(1) | (A) 0.1% of the amount of the consideration or of its value at the date on which the contract note falls to be executed: but see Note to this sub-head (Amended 18 of 1998 s. 2; 22 of |
|--|--|

- 2000 s. 2; 22 of 2001 s. 4)
- (B) 2 days after the sale or purchase if effected in Hong Kong: see section 19(1)(b)(i)  
30 days after the sale or purchase if effected elsewhere: see section 19(1)(b)(ii)
  - (C) The agent or, where no agent, the principal effecting the sale or purchase

And see sections 2, 4, 5, 5A, 6, 19, 20, 23, 24, 27 and 45

Note

Where the consideration or any part of the consideration consists of any security not being stock, the amount due upon such security for principal and interest on the date on which the contract note falls to be executed shall be taken to be its value at that date

- (2) CONTRACT NOTE in respect of jobbing business on every note required to be made under section 19(1)

- (A) \$5
- (B) 2 days after the sale or purchase: see section 19(1)(b)(i)
- (C) The exchange participant effecting the sale or purchase (Amended 12 of 2000 s. 23)

And see sections 2, 4, 19 and 20

- (3) TRANSFER operating as a voluntary disposition inter vivos or made for the purpose of effectuating a transaction whereby the beneficial interest in Hong Kong stock passes otherwise than on sale and purchase, including a foreclosure order (Amended 33 of 1998 s. 11)

- (A) \$5 and 0.2% of the value of the stock (Amended 18 of 1998 s. 2; 22 of 2000 s. 2; 22 of 2001 s. 4)
- (B) 7 days after execution or, if executed elsewhere than in Hong Kong, 30 days after execution; but see Note 1 to this sub-head
- (C) The transferor and the transferee; but see Note 1 to this sub-head

And see sections 4, 19, 27, 28, 30, 44 and 45

Note 1

In the case of a foreclosure order, the time for stamping shall be before the order is signed by the Registrar and the persons liable shall be the persons obtaining the order

Note 2

In the case of a foreclosure order, the stamp duty chargeable thereon shall not exceed the stamp duty which would have been chargeable thereon by reference to the amount of the debt to which the order relates

Note 3

A foreclosure order shall not be duly stamped unless the Collector has stamped it under section 13(3)(b)

- (4) TRANSFER of any other kind

- (A) \$5; but see Note to this sub-

- head
- (B) Before execution or, if executed elsewhere than in Hong Kong, 30 days after execution
- (C) The transferor and the transferee

And see sections 5, 7, 19, 30 and 47A  
(Amended 70 of 2000 s. 3)

Note

No stamp duty under this sub-head shall be payable on a transfer executed by a recognized clearing house (within the meaning of section 19(16)) or its nominee-

- (a) as the transferor of the Hong Kong stock; and
- (b) in accordance with the rules (within the meaning of section 19(16)) of the clearing house

(Replaced 40 of 1992 s. 7)

### HEAD 3: HONG KONG BEARER INSTRUMENT

- (1) HONG KONG BEARER INSTRUMENT issued in respect of any stock other than-
  - (a) (Repealed 43 of 1991 s. 7)
  - (b) units in a unit trust scheme under the terms of which the funds of the trust cannot be invested in any investment other than loan capital

- (A) \$3 per \$100 or part thereof of market value on issue
- (B) Before issue
- (C) The person by whom or on whose behalf the instrument is issued and any person who acts as the agent of that person for the purposes of the issue

And see sections 2 and 5(5)

(Replaced 21 of 1986 s. 2)

- (2) HONG KONG BEARER INSTRUMENT given in substitution for a like instrument duly stamped under sub-head (1) of this head

- (A) \$5
- (B) Before issue
- (C) The person by whom or on whose behalf the instrument is issued and any person who acts as the agent of that person for the purposes of the issue

And see sections 2 and 5(5)

### HEAD 4: DUPLICATES AND COUNTERPARTS

DUPLICATE OR COUNTERPART of any instrument chargeable with any stamp duty

- (A) Where the stamp duty on the original instrument does not amount to \$5, the same stamp duty as on the original; in any other case, \$5: but see Note to this head
- (B) 7 days after execution, or such longer period as the time for stamping the original instrument would allow
- (C) -

And see section 8  
Note

If in the case of a lease or agreement for a lease the stamp duty payable in respect thereof is limited in accordance with section 42(2) or 43(2) to 50% of the stamp duty chargeable thereon the stamp duty chargeable on a duplicate or counterpart thereof shall be limited to 50% of the stamp duty otherwise chargeable under this head

(Amended 29 of 1998 s. 2; 43 of 1991 s. 7; 85 of 1991 s. 6; 8 of 1992 s. 6; 36 of 1992 s. 3; 40 of 1992 s. 7; L.N. 50 of 1993; 31 of 1993 s. 2; L.N. 90 of 1999 and 44 of 1999 s. 22)

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- \* The amendments made by L.N. 90 of 1999 and Ord. No. 44 of 1999 to paragraph (B), Note 2(a) and (b) and Note 3 under head 1(1A) of the First Schedule shall only apply to an agreement for sale, or an unwritten sale agreement, as defined in section 29A(1), if the relevant date within the meaning of section 29B(3) is, in so far as such agreement for sale or unwritten sale agreement (as the case may be) is concerned, on or after 1 April 1999.