

STAMP DUTY (AMENDMENT) BILL 2010

Committee Stage Amendments proposed by Hon James To Kun-sun
Marked-up version of the Stamp Duty Ordinance (Cap. 117)

Section: 29C Chargeable agreements for sale

(1) (Repealed L.N. 90 of 1999 and 44 of 1999 s. 19)

(2) An agreement for sale to which head 1(1A) in the First Schedule applies is chargeable with stamp duty even if-

(a) it does not contain the matters specified in section 29B(5); or

(b) it has not been executed by all persons who are required by section 29B(1) to execute it, or both, but the Collector may refuse to stamp a chargeable agreement for sale that does not contain those matters or has not been so executed.

(3) For the avoidance of doubt, it is hereby declared that if-

(a) a chargeable agreement for sale is made in respect of immovable property; and

(b) another chargeable agreement for sale is made in respect of all or any part of the property (whether by the vendor or purchaser under the first-mentioned agreement, or both) before a conveyance on sale of the property or that part of the property is made in pursuance of the first-mentioned agreement,

then (subject to the notes to head 1(1A) in the First Schedule and to section 29F each agreement is chargeable with stamp duty by reference to the consideration for the agreement **and the agreement in subsection (3)(b) is chargeable with an additional stamp duty in a sum of X% of the stamp duty chargeable by reference to the consideration of the agreement.**

(4) The principle in subsection (3) applies, with necessary modifications, if there is a series of more than 2 chargeable agreements for sale in respect of the same, or any part of the same, immovable property; for example-

(a) if a purchaser under a chargeable agreement for sale makes a chargeable agreement for a sub-sale, and the sub-purchaser makes a further chargeable agreement for a sub-sale; or

(b) if a chargeable agreement for sale is cancelled and replaced by a chargeable agreement for sale made by the vendor and a second purchaser, and that other agreement is cancelled and replaced by a chargeable agreement for sale made

by the vendor and a third purchaser,
then (subject to the notes to head 1(1A) in the First Schedule and to section 29F) each agreement is chargeable with stamp duty by reference to the consideration for the agreement and each sub-sale agreement in subsection (4)(a) is chargeable with stamp duty by reference to the consideration for the agreement of sub-sale agreement.

Schedule 1

(1A) AGREEMENT FOR SALE

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| (a) where the amount or value of the consideration does not exceed \$2000000 and the instrument is certified in accordance with section 29G at \$2000000 | (A) (a) \$100 (Replaced L.N. 32 of 2007) |
| (b) where the amount or value of the consideration exceeds \$2000000 but does not exceed \$2351760 and the instrument is certified in accordance with section 29G at \$2351760 | (b) \$100 plus 10% of the amount by which the amount or value of the consideration exceeds \$2000000 (Replaced L.N. 32 of 2007) |
| (c) where the amount or value of the consideration exceeds \$2351760 but does not exceed \$3000000 and the instrument is certified in accordance with section 29G at \$3000000 | (c) 1.5% of the amount or value of the consideration (Replaced L.N. 32 of 2007) |
| (d) 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 | (d) \$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. Amended L.N. 32 of 2007) |
| (e) where the amount or value of the consideration exceeds \$3290320 but does not exceed \$4000000 and the instrument is | (e) 2.25% of the amount or value of the consideration (Replaced L.N. 90 of 1999 and 44 of 1999 s. 22. amended |

certified in accordance with section 29G at \$4000000

- (f) 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
- (g) 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
- (h) 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
- (i) where the amount or value of the consideration exceeds \$6720000 but does not exceed \$20000000 and the instrument is certified in accordance with section 29G at \$20000000
- (j) where the amount or value of the consideration exceeds \$20000000 but does not exceed \$21739120 and the instrument is certified in accordance with section 29G at \$21739120
- (k) in any other case

L.N. 32 of 2007)

- (f) \$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. Amended L.N. 32 of 2007)
- (g) 3% of the amount or value of the consideration (Replaced L.N. 90 of 1999 and 44 of 1999 s. 22. Amended L.N. 32 of 2007)
- (h) \$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. Amended L.N. 32 of 2007)
- (i) 3.75% of the amount or value of the consideration (Replaced L.N. 18 of 2010)
- (j) \$750000 plus 10% of the amount by which the amount or value of the consideration exceeds \$20000000 (Added L.N. 18 of 2010)
- (k) 4.25% of the amount or value of the consideration (Added L.N. 18 of 2010)

*(B) 30 days after the relevant date (within

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

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, **but see Note 2A to this sub-head** (Replaced 36 of 1994 s. 3)

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), 13(2) or 18E(1), 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; 21 of 2003 s. 25)

Note 2A

In the case of a chargeable agreement for sale under section 29C(3)(b), the person liable shall be the purchaser of the chargeable agreement for sale in section 29C(3)(a).

In the case of a chargeable agreement for sub-sale under section 29C(4)(a), the persons liable shall be the purchaser under a chargeable agreement for sale who makes a chargeable agreement for a sub-sale, and the sub-purchaser who makes a further chargeable agreement for a sub-sale.

*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), 13(2) or 18E(1), or is endorsed under section 29C(13)(a)- (Amended 21 of 2003 s. 25)

(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)