



九龍辦事處
九龍旺角彌敦道664號
惠豐中心五字樓

Interchange No. DX-535037-1 MK

KOWLOON OFFICE
5/F., Wai Fung Plaza,
664 Nathan Road, Kowloon, H.K.
Tel.: 2391 0565, 2391 4341
Facsimile: 2789 8536, 2789 3555

YUEN LONG OFFICE
2/F., Longfield Centre,
129-131 Castle Peak Rd., Yuen Long, N.T., H.K.
Tel.: 2476 8134, 2478 7903
Facsimile: 2474 8324

元朗辦事處
新界元朗青山道129至131號
朗輝中心2字樓

Interchange No. DX-980003-1 YL

Our Ref:

Your Ref:

Date:

9th January 2014

By Hand

Hon. Starry LEE Wai-king, JP

Chairman

Bills Committee on Stamp Duty (Amendment) Bill 2012

Legislative Council Complex,

1 Legislative Council Road,

Central,

Hong Kong


Dear Madam,

Re : Stamp Duty (Amendment) Bill 2012 (the "Bill")

I read from the newspaper on 7 January 2014 that there is a committee stage amendment proposed by the Hon. Ip Lau Suk-ye, Regina to remove the exemption to pay buyer's stamp duty ("BSD") envisaged under sections 29CB and 29DB of the Bill and the Transport and Housing Bureau has indicated its intention to take over the said amendment, i.e. to withdraw the exemption in relation to HKPR minors.

I am a bit concerned about the possible retrospective effect of the proposed amendments. I am of the view that if the amendment is passed, it should not affect agreements signed by adults as trustees for HKPR minors before a separate non-retrospective commencement date fixed by the Legislative Council which date should not be earlier than the date when an official announcement by the government to the public about the removal of the exemption was made or the date of passing of the Bill. My reasons are as follows :

1. The original Bill has excluded adults signing sale and purchase agreements as trustees for HKPR minors from BSD.


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Partners:

David P.H. Wong
Anthony S.K. Lo
Anne Hui
Allen W.H. Che

黃佩韜律師
盧錫駒律師
許安妮律師
車偉恒律師

Tel. Nos.

2308 0608
2308 0618
2308 0503
2308 0621

Associates:

Claire K. Y. Mak
Law Man Chiu
Lam Chun Wah
Chan Ka Hay

麥嘉恩律師
羅文超律師
林振華律師
陳家禧律師

Tel. Nos.

2308 0512
2308 0530
2308 0527
2391 0565

Consultants:

Herman C.S. Hui BBS, MH, JP 許宗盛律師
* # John C.W. Chu 朱仲華律師

2308 0532
2308 0500

* Notary Public
China-Appointed Attesting Officer

Hon. Starry LEE Wai-king, JP
Chairman
Bills Committee on Stamp Duty (Amendment) Bill 2012

9th January 2014

- 2 -

2. After the Bill has been gazetted, the IRD has through its website informed the public through a Q & A section that no BSD will be payable on the agreements signed by adults as trustees for HKPR minors.
3. IRD staff has on numerous occasions confirmed during telephone enquiries that no BSD would be payable on agreements signed by adults as trustees for HKPR minors.
4. It will be unfair to those persons who, in reliance of the original Bill and the representations made by IRD, have signed agreements as trustees for HKPR minors before they are aware that the Government takes over such an amendment to the Bill and withdraw or remove the exemption. The Government ought to make known to the public such withdrawal and agreements signed by adults as trustees for HKPR minors before the announcement should not be affected.

For ease of reference, I enclose herewith copies of the following documents relating to the subject matter :

- (a) No. 7 of Q & A (Chinese version) published on IRD's website up to at least the morning of 7th January 2014;
- (b) revised No. 7 of Q & A (English and Chinese version) published on IRD's website since after 7th January 2014.

I shall be obliged if you will kindly arrange to have this letter circulated to members of the Committee (and all other members of the Legislative Council) and consider our views at the next Bills Committee meeting.

Yours faithfully,



Anthony Lo
Senior Partner

買家印花稅

- ▶ 1. 問：在什麼情況下須繳納「買家印花稅」？
 - ▶ 2. 問：由誰人支付「買家印花稅」？
 - ▶ 3. 問：如何計算「買家印花稅」？有關的稅率是多少？
 - ▶ 4. 問：對在 **2012 年 10 月 27 日** 前已簽訂臨時買賣合約，但在該日後才簽署買賣合約購入住宅物業的非香港永久性居民，「買家印花稅」是否適用？
 - ▶ 5. 問：如何判斷某人是否香港永久性居民？
 - ▶ 6. 問：若有限公司的所有股東和董事均為香港永久性居民是否可獲豁免徵收「買家印花稅」？
 - ▶ 7. 問：一位非香港永久性居民以信託受託人身分為另一位香港永久性居民購入住宅物業，是否須繳交「買家印花稅」？
- 答：非香港永久性居民以信託受託人身分替另一位香港永久性居民簽署一份買賣協議，須繳交「買家印花稅」，除非該香港永久性居民屬未成年或精神上無行為能力人士。

[返回頁首](#)

- ▶ 8. 問：為購入服務式住宅所簽立的文書是否須繳納「買家印花稅」？
- ▶ 9. 問：在甚麼情況下「買家印花稅」可獲豁免？
- ▶ 10. 問：如果住宅物業由一名香港永久性居民及其屬非香港永久性居民的配偶共同購入，是否須就有關交易繳納「買家印花稅」？
- ▶ 11. 問：就印花稅而言，外父 / 外母是否被視為近親？
- ▶ 12. 問：如果住宅物業由一名香港永久性居民及另一位屬非香港永久性居民的人士共同購入，而該兩名人士並非近親，是否只須就樓價的一半繳納「買家印花稅」？
- ▶ 13. 問：甲先生為香港永久性居民，他在 **2012 年 10 月 15 日** 簽署臨時買賣合約購入住宅物業。其後，在 **2012 年 10 月 27 日** 或以後簽訂的正式買賣合約中加入乙女士的名字(乙女士並非香港永久性居民，也不是甲先生的近親)，甲先生和乙女士是否須繳納「買家印花稅」？
- ▶ 14. 問：甲先生為香港永久性居民，他在 **2012 年 10 月 15 日** 簽署「可予徵收印花稅的買賣協議」購入一所住宅物業。其後，在 **2012 年 10 月 27 日** 或以後簽立的轉易契中加入乙女士的名字(乙女士並非香港永久性居民，也不是甲先生的近親)，甲先生和乙女士是否須繳納「買家印花稅」？
- ▶ 15. 問：甲先生為香港永久性居民，他在 **2012 年 10 月 15 日** 簽署臨時買賣協議購入一所住宅物業。其後在 **2012 年 10 月 27 日** 或以後，他提

[Home](#)[What's New](#)[About Us](#)[Publications and Press Releases](#)[Access to Information](#)[Policies](#)[Tax Information - Individuals / Businesses](#)[Tax Information - Others](#)[Public Forms and Pamphlets](#)[Electronic Services](#)[Tender Notices](#)[FAQ](#)[Contact Us](#)[Related Links](#)[Home](#) > [Frequently Ask Questions](#) > Buyer's Stamp Duty (BSD)**Buyer's Stamp Duty (BSD)**

- ▶ 1. Q: Under what circumstances will BSD be payable?
- ▶ 2. Q: Who will be liable to pay the BSD?
- ▶ 3. Q: How to calculate BSD? What is the rate of BSD?
- ▶ 4. Q: Will BSD be applicable to a non-HKPR who has entered into a Provisional Agreement for Sale and Purchase (PASP) in respect of a residential property before 27 October 2012 and signed an Agreement for Sale and Purchase (ASP) on or after that date?
- ▶ 5. Q: How to determine whether a person is a HKPR or not?
- ▶ 6. Q: Whether a company whose shareholders and directors are all HKPRs is liable to BSD?
- ▼ 7. Q: Whether an agreement for sale signed by a non-HKPR to acquire a residential property and hold it as a trustee for a HKPR is subject to BSD?

A: An agreement for sale signed by a non-HKPR in the capacity of a trustee on behalf of a HKPR is chargeable with BSD, unless the HKPR is a minor or a mentally incapacitated person.

(Note: The Administration has accepted the views of the members of Bills Committee of the Legislative Council and decided to withdraw the proposed BSD exemption for HKPR minors. For details, please refer to [the Administration's written response](#).)

[back to top](#)

- ▶ 8. Q: Whether the instrument for transfer of a serviced apartment is chargeable with BSD?
- ▶ 9. Q: Under what circumstances will BSD be exempted?
- ▶ 10. Q: If a residential property is acquired jointly by a HKPR and his/her spouse who is not a HKPR, will any BSD be payable?
- ▶ 11. Q: For stamp duty purposes, whether a parent-in-law will be regarded as a close relative?
- ▶ 12. Q: If a residential property is acquired by a HKPR and a non-HKPR who is not the HKPR's close relative, will only half of the price or the value of the property be chargeable with BSD?
- ▶ 13. Q: Mr. A, a HKPR, signed a PASP to purchase a residential property on 15 October 2012. The name of Ms. B (Ms. B is not a HKPR and not a close relative of Mr. A) was added to the ASP which was signed on or after 27 October 2012. Will Mr. A and Ms. B be liable to BSD?
- ▶ 14. Q: Mr. A, a HKPR, signed an ASP to purchase a residential property on 15 October 2012. The name of Ms. B (Ms. B is not a HKPR and not a close relative of Mr. A) was added to the assignment which was executed on or after 27 October 2012. Will Mr. A and Ms. B be liable to BSD?
- ▶ 15. Q: Mr. A signed a PASP to purchase a residential property on 15 October 2012. Subsequently on or after 27 October 2012, he nominated Mr. B (Mr. B is not a HKPR and not a close relative of Mr. A) to take up the ASP. Will Mr. B be liable to BSD?
- ▶ 16. Q: If a non-HKPR inherits a residential property from a deceased person's estate on or after 27 October 2012, will he/she be liable to BSD?
- ▶ 17. Q: Are Government Grants/Leases chargeable with BSD?
- ▶ 18. Q: Will any relief be given to a person who is not HKPR but acquiring residential property for redevelopment?
- ▶ 19. Q: Residential properties in a lot firstly acquired by several companies and then transferred to a company for redevelopment, will the BSD paid be refunded?
- ▶ 20. Q: Where residential properties in a lot are acquired by several companies for joint development, will the BSD paid be refunded?
- ▶ 21. Q: Will BSD be payable on an instrument of exchange under which a residential property is exchanged for another residential property?
- ▶ 22. Q: Will BSD be payable on an instrument of exchange under which a non-residential property is exchanged for a residential property?

- ▶ 23. Q: When should BSD be paid?
- ▶ 24. Q: Will the BSD paid be refunded if the buyer and seller cancel the agreement for sale after BSD was paid?

[back to top](#)

[主頁](#)[最新消息](#)[關於本局](#)[刊物及新聞公報](#)[公開資料](#)[政策](#)[稅務資料—個別人士／公司業務](#)[稅務資料—其他](#)[公用表格及小冊子](#)[電子服務](#)[招標公告](#)[常見問題](#)[聯絡我們](#)[相關網址](#)[主頁](#) > [常見問題](#) > 買家印花稅

買家印花稅

- ▶ 1. 問：在什麼情況下須繳納「買家印花稅」？
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答：非香港永久性居民以信託受託人身分替另一位香港永久性居民簽署一份買賣協議，須繳交「買家印花稅」，除非該香港永久性居民屬未成年或精神上無行為能力人士。
(註：政府當局已接納立法會法案委員會會員的意見，決定取消向未成年的香港永久性居民提供建議的買家印花稅豁免，請[按此](#)參閱政府當局的書面回應。)
- ▶ 8. 問：為購入服務式住宅所簽立的文書是否須繳納「買家印花稅」？
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- ▶ 15. 問：甲先生為香港永久性居民，他在 2012 年 10 月 15 日簽署臨時買賣協議購入一所住宅物業。其後在 2012 年 10 月 27 日或以後，他提名乙先生(乙先生並非香港永久性居民，也不是甲先生的近親)簽署正式買賣合約，乙先生是否須繳納「買家印花稅」？
- ▶ 16. 問：如果一位非香港永久性居民在 2012 年 10 月 27 日或以後由一位已故人士承繼一個住宅物業，他是否須繳納「買家印花稅」？
- ▶ 17. 問：政府批地合約/租契是否須徵收「買家印花稅」？
- ▶ 18. 問：非香港永久性居民在收購住宅物業作重建用途是否享有寬免？
- ▶ 19. 問：多家公司購入位於同一地段上的住宅物業，然後轉讓予另一公司作為重建用途，所繳交的「買家印花稅」是否可獲退還？
- ▶ 20. 問：多家公司共同購入位於同一地段上的住宅物業作為重建用途，所繳交的「買家印花稅」是否可獲退還？
- ▶ 21. 問：一份作為交換不同住宅物業的文書是否須徵收「買家印花稅」？
- ▶ 22. 問：一份作為交換住宅物業與非住宅物業的文書是否須徵收「買家印花稅」？
- ▶ 23. 問：「買家印花稅」在何時繳交？
- ▶ 24. 問：如在繳納了「買家印花稅」後取消了有關買賣協議，可否申請退回已繳納的「買家印花稅」？

[返回頁首](#)[返回頁首](#)

