

HONG KONG SPECIAL ADMINISTRATIVE REGION

ORDINANCE NO. 4 OF 2015



C. Y. LEUNG
Chief Executive
12 February 2015

An Ordinance to amend the Stamp Duty Ordinance to give effect to the proposal in the Budget introduced by the Government for the 2014–2015 financial year to waive stamp duty payable on the transfer of shares or units of exchange traded funds.

[13 February 2015]

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Stamp Duty (Amendment) Ordinance 2015.

2. Stamp Duty Ordinance amended

The Stamp Duty Ordinance (Cap. 117) is amended as set out in sections 3 to 6.

3. Section 19 amended (contract notes, etc. in respect of sale and purchase of Hong Kong stock)

After section 19(1D)—

Add

“(1DA) Subsection (1) does not apply to a transaction specified in Part 2 of Schedule 8.”.

4. Section 63 amended (regulations)

Section 63(c), after “Schedules”—

Add

“, and Schedule 8”.

5. First Schedule amended

(1) First Schedule—

Repeal

“Sch. 7]”

Substitute

“Schs. 7 & 8]”.

(2) First Schedule, head 2(3), paragraph (A), after “stock”—

Add

“; but see Note 4 to this sub-head”.

(3) First Schedule, head 2(3), after Note 3—

Add

“Note 4

Stamp duty under this sub-head is not payable on a transfer specified in Part 3 of Schedule 8”.

(4) First Schedule, head 2(4), paragraph (A)—

Repeal

“Note”

Substitute

“Notes 1 and 2”.

- (5) First Schedule, head 2(4)—

Renumber the Note as Note 1.

- (6) First Schedule, head 2(4), after Note 1—

Add

“Note 2

Stamp duty under this sub-head is not payable on a transfer specified in Part 4 of Schedule 8”.

6. Schedule 8 added

After Schedule 7—

Add

“Schedule 8

[ss. 19 & 63 &
1st Sch.]

**Transactions and Transfers Relating to Exchange
Traded Funds**

Part 1

Interpretation

1. In this Schedule—

collective investment scheme (集體投資計劃) has the meaning given by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571);

constitutive documents (組成文件), in relation to a collective investment scheme, means the principal documents governing the establishment of the scheme;

exchange traded fund (交易所買賣基金) means an open-ended collective investment scheme the shares or units of which are listed or traded on a recognized stock market;

offering document (要約文件), in relation to a collective investment scheme, means a document—

- (a) inviting participation in the scheme by prospective shareholders or prospective unit holders of the scheme; and
- (b) containing information relating to the establishment or administration of the scheme;

open-ended collective investment scheme (開放式集體投資計劃) means a collective investment scheme the shares or units of which may be repurchased or redeemed at the request of any of its shareholders or unit holders—

- (a) at a price calculated wholly or mainly by reference to the net asset value of the scheme; and
- (b) in accordance with the frequency for repurchase or redemption, requirements and procedures set out in the offering document or constitutive documents of the scheme;

purchase (購買), ***sale*** (售賣) and ***sale or purchase*** (售賣或購買) have the meaning given by section 19(16).

Part 2

Transactions to which Section 19(1) does not Apply

1. A sale or purchase of a share or unit of an exchange traded fund.
2. A transaction that is deemed under section 19(1E)(a) or (12) to be a sale and purchase of Hong Kong stock where the stock involved is a share or unit of an exchange traded fund.

Part 3

Transfers on which Stamp Duty under Head 2(3) in First Schedule is not Payable

1. A transfer executed for a transaction by which the beneficial interest in a share or unit of an exchange traded fund passes otherwise than on sale and purchase.
2. An instrument that is deemed under section 30(3) to be a transfer operating as a voluntary disposition inter vivos under section 27(4) where the unit trust scheme involved is an exchange traded fund.

Part 4

Transfers on which Stamp Duty under Head 2(4) in First Schedule is not Payable

1. A transfer executed for a transaction by which a share or unit of an exchange traded fund is transferred.
2. An instrument that is deemed under section 30(3), (4) or (5) to be a transfer falling within head 2(4) in the First Schedule where the unit trust scheme involved is an exchange traded fund.”.