

## **LEGISLATIVE COUNCIL BRIEF**

Stamp Duty Ordinance  
(Chapter 117)

### **STAMP DUTY (SPECIFICATION OF INSTRUMENTS) (AMENDMENT) NOTICE 2019**

#### **INTRODUCTION**

The Stamp Duty (Specification of Instruments) (Amendment) Notice 2019 (“Amendment Notice”), at **Annex**, should be introduced into the Legislative Council to implement e-Stamping of the chargeable instruments of stock transactions, i.e. contract notes and instruments of transfer.

#### **JUSTIFICATIONS**

2. At present, stock transactions and property transactions are subject to stamp duty to be collected by the Stamp Office of the Inland Revenue Department. E-Stamping is an alternative mode of stamping to manual stamping. Under section 18F(1) of the Stamp Duty Ordinance (Cap. 117) (“SDO”), a person may, in respect of an instrument specified in Part 1 of the Schedule to the Stamp Duty (Specification of Instruments) Notice (Cap. 117 sub. leg. B), apply to the Collector of Stamp Revenue for stamping the instrument without presenting it. Currently, the e-Stamping services are restricted to instruments related to property transactions, namely agreement for sale, assignment and tenancy agreement in general.

3. In order to expand the e-Stamping services to cover instruments related to stock transactions, we propose to amend the Stamp Duty (Specification of Instruments) Notice (Cap. 117 sub. leg. B) to allow applications for stamping of the two kinds of instruments, i.e. contract note and instrument of transfer of Hong Kong stock, to be made without

presenting the original instruments<sup>1</sup>. Upon receipt of the application and payment of stamp duty, the Stamp Office will generate stamp certificates electronically and thereby stamping requirement is fulfilled.

4. The proposal will help minimise the risk of losing or damaging the instruments as submission of the original instruments to the Stamp Office is not required. The e-Stamping services will also enhance convenience to applicants who can submit electronic stamping application anytime and anywhere.

5. E-Stamping of these instruments is proposed to be accepted by the Stamp Office from the commencement date of the Amendment Notice, i.e. 16 December 2019.

## **OTHER OPTIONS**

6. Amending the Stamp Duty (Specification of Instruments) Notice (Cap. 117 sub. leg. B) is the only way to give effect to the proposal. There is no other option.

## **THE AMENDMENT NOTICE**

7. The Amendment Notice amends the Schedule to the Stamp Duty (Specification of Instruments) Notice (Cap. 117 sub. leg. B) to allow applications for stamping of the following two kinds of instruments to be made without presenting the instruments –

- (a) contract note of Hong Kong stock and its duplicate or counterpart chargeable with stamp duty under the First Schedule to the SDO; and
- (b) instrument of transfer of Hong Kong stock and its duplicate or counterpart chargeable with stamp duty under that First Schedule.

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<sup>1</sup> For adjudication and exemption cases, the original instruments are still required to be presented to the Stamp Office for examination and will not be covered by the e-Stamping services. Each of these cases involves examination of the instrument and supporting evidence in ascertaining whether the instruments are chargeable with stamp duty and if yes, the amount of stamp duty payable on a case-by-case basis. It requires judgement from Stamp Office officers and cannot be automated via e-Stamping.

## **LEGISLATIVE TIMETABLE**

8. The legislative timetable is as follows –

Publication in the Gazette	5 July 2019
Tabling at Legislative Council for negative vetting	1 <sup>st</sup> meeting of 2019/20 legislative session
Commencement	16 December 2019

## **IMPLICATIONS OF THE PROPOSAL**

9. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the binding effect of the existing provisions of the SDO and its subsidiary legislation. The proposal has no financial, productivity, competition, environmental, sustainability, family, gender or civil service implications. No significant economic implications are envisaged.

## **PUBLIC CONSULTATION**

10. The Inland Revenue Department consulted relevant stakeholders from the securities, legal and accounting/tax sectors on the proposal in April 2018 and they indicated support in general.

11. We consulted the Legislative Council Panel on Financial Affairs on 1 April 2019 on the legislative proposal to expand the e-Stamping services to cover instruments related to stock transactions. Members supported the proposal.

## **PUBLICITY**

12. We will issue a press release on 3 July 2019. A spokesperson will be available to answer media and public enquiries.

## **BACKGROUND**

13. The Hong Kong Exchanges and Clearing Ltd. is currently responsible for collecting the stamp duty for on-exchange stock transactions on behalf of the Collector of Stamp Revenue. For

off-exchange stock transactions, duty payers are required to present the contract notes and / or the instruments of transfer to the Stamp Office for stamping. The existing stamping arrangement for off-exchange stock transactions involves manual processing procedures, including calculating the amount of stamp duty payable, preparing assessment sheets for making payment, imprinting stamps by franking machine, etc.

## **ENQUIRIES**

14. Enquiries on this Brief can be addressed to Miss Helen CHUNG, Principal Assistant Secretary for Financial Services and the Treasury (Treasury), at 2810 2370.

**Financial Services and the Treasury Bureau**  
**3 July 2019**

## Stamp Duty (Specification of Instruments) (Amendment) Notice 2019

(Made by the Collector of Stamp Revenue under section 18F of the Stamp  
Duty Ordinance (Cap. 117))

### 1. Commencement

This Notice comes into operation on 16 December 2019.

### 2. Stamp Duty (Specification of Instruments) Notice amended


The Stamp Duty (Specification of Instruments) Notice (Cap. 117 sub. leg. B) is amended as set out in section 3.

### 3. Schedule amended (specification of instruments)

The Schedule, Part 1, after item 3—

#### Add

- “4. Contract note of Hong Kong stock chargeable with stamp duty under head 2(1) or (2) in the First Schedule to the Ordinance and, if included in the same application for stamping under section 18F(1) of the Ordinance as the note, its duplicate or counterpart chargeable with stamp duty under head 4 in that Schedule
5. Instrument of transfer chargeable with stamp duty under head 2(3) or (4) in the First Schedule to the Ordinance and, if included in the same application for stamping under section 18F(1) of the Ordinance as the instrument, its duplicate or counterpart chargeable with stamp duty under head 4 in that Schedule”.



Collector of Stamp Revenue

11 April 2019

### **Explanatory Note**

This Notice amends the Schedule to the Stamp Duty (Specification of Instruments) Notice (Cap. 117 sub. leg. B) to allow applications for stamping of the following 2 kinds of instruments to be made without presenting the instruments—

- (a) contract note of Hong Kong stock and its duplicate or counterpart chargeable with stamp duty under the First Schedule to the Stamp Duty Ordinance (Cap. 117);
- (b) instrument of transfer of Hong Kong stock and its duplicate or counterpart chargeable with stamp duty under that First Schedule.