

L.N. 231 of 2020

Public Revenue Protection (Stamp Duty) Order 2020

(Made by the Chief Executive under section 2 of the Public Revenue Protection Ordinance (Cap. 120) after consultation with the Executive Council)

1. Commencement

This Order comes into force at the beginning of 26 November 2020.

2. Operation of Scheduled Bill

The Bill set out in the Schedule has the full force and effect of law so long as this Order remains in force.

Schedule

[s. 2]

A BILL

To

Amend the Stamp Duty Ordinance to decrease the stamp duty on certain instruments dealing with non-residential property; and to make related amendments.

Enacted by the Legislative Council.

1. Short title and commencement

- (1) This Ordinance may be cited as the Stamp Duty (Amendment) Ordinance 2020.
- (2) This Ordinance is deemed to have come into operation on 26 November 2020.

2. Stamp Duty Ordinance amended

The Stamp Duty Ordinance (Cap. 117) is amended as set out in sections 3 to 10.

3. Section 2 amended (interpretation)

At the end of section 2—

Add

“Note (with no legislative effect)—

For the meaning of an agreement for sale, an unwritten sale agreement (as defined by section 29A(1)) or a conveyance on sale being made on the same terms as a previous agreement—see section 29A(4).”.

4. Section 29A amended (interpretation and application of Part IIIA)

Section 29A(4)—

Repeal

everything before “made on”

Substitute

“(4) For the purposes of this Ordinance, an agreement for sale, an unwritten sale agreement or a conveyance on sale is”.

5. Section 29AI amended (scales of rates applicable to conveyances on sale chargeable with ad valorem stamp duty)

Section 29AI(b)—

Repeal

“Part 2 of Scale 1”

Substitute

“Scale 2”.

6. Section 29AIA amended (scales of rates applicable to instruments effecting exchange between residential property and non-residential property)

Section 29AIA(2)(b)—

Repeal

“Part 2 of Scale 1”

Substitute

“Scale 2”.

7. Section 29BA amended (scales of rates applicable to agreements for sale chargeable with ad valorem stamp duty)

Section 29BA(b)—

Repeal

“Part 2 of Scale 1”

Substitute

“Scale 2”.

8. Section 29BAB amended (scales of rates applicable to agreements for exchange between residential property and non-residential property)

Section 29BAB(2)(b)—

Repeal

“Part 2 of Scale 1”

Substitute

“Scale 2”.

9. Section 74 added

After section 73—

Add

“74. Transitional provisions for Stamp Duty (Amendment) Ordinance 2020

(1) In this section—

Amendment Ordinance (《修訂條例》) means the Stamp Duty (Amendment) Ordinance 2020 (of 2020);

pre-amended Ordinance (《未經修訂條例》) means this Ordinance as in force immediately before 26 November 2020.

- (2) The pre-amended Ordinance continues to apply, as if the Amendment Ordinance had not been enacted, to—
- (a) an instrument that was executed before 26 November 2020;
 - (b) an agreement for sale that supersedes another agreement for sale made between the same parties and on the same terms before 26 November 2020; or
 - (c) a conveyance on sale that is executed in conformity with an agreement for sale made before 26 November 2020.”.

10. First Schedule amended

- (1) First Schedule, head 1(1), Scale 1—

Repeal Part 2.

- (2) First Schedule, head 1(1A), Scale 1—

Repeal Part 2.

Explanatory Memorandum

The object of this Bill is to amend the Stamp Duty Ordinance (Cap. 117) (*Ordinance*) to decrease the stamp duty on certain instruments dealing with non-residential property.

2. Clause 1 sets out the short title and provides that the Bill, if enacted, is deemed to have come into operation on 26 November 2020.
3. Clauses 3 and 4 respectively make technical amendments to sections 2 and 29A of the Ordinance.
4. Clause 5 amends section 29AI of the Ordinance to provide that a conveyance on sale of non-residential property is chargeable with stamp duty under Scale 2 of head 1(1) in the First Schedule to the Ordinance (*First Schedule*), instead of Part 2 of Scale 1 of that head.
5. Clause 6 amends section 29AIA of the Ordinance to provide that for an instrument effecting the exchange of a residential property for a non-residential property, if consideration for equality is paid or given by the person to whom the non-residential property is transferred, stamp duty is chargeable by reference to the consideration under Scale 2 of head 1(1) in the First Schedule, instead of Part 2 of Scale 1 of that head.
6. Clause 7 amends section 29BA of the Ordinance to provide that an agreement for sale of non-residential property is chargeable with stamp duty under Scale 2 of head 1(1A) in the First Schedule, instead of Part 2 of Scale 1 of that head.

Public Revenue Protection (Stamp Duty) Order 2020

Schedule

L.N. 231 of 2020

B3667

7. Clause 8 amends section 29BAB of the Ordinance to provide that for an agreement providing for the exchange of a residential property for a non-residential property, if consideration for equality is paid or given (or agreed to be paid or given) by the person to whom the non-residential property is to be transferred, stamp duty is chargeable by reference to the consideration under Scale 2 of head 1(1A) in the First Schedule, instead of Part 2 of Scale 1 of that head.
8. Clause 9 adds a new section 74 to the Ordinance to provide for transitional matters.
9. Clause 10 repeals Part 2 of Scale 1 of head 1(1) and Part 2 of Scale 1 of head 1(1A) in the First Schedule.

Carrie LAM
Chief Executive

25 November 2020