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# Additional Buyer's Stamp Duty (ABSD) Imposed on All Transfers of Residential Property into Living Trust

## Background

When individuals and entities buy residential properties in Singapore, they are required to pay buyer's stamp duty ("BSD") on instruments executed for the transfer or sale and purchase of the property. The Singapore Government imposes additional buyer's stamp duty ("ABSD") on the transfer or sale and purchase agreements of residential properties in Singapore as part of the cooling measures on the purchase of residential properties. Buyers and transferees of residential properties in Singapore are required to pay ABSD in addition to the existing BSD at a rate prescribed by the Singapore Government.

## Previous Treatment

When a residential property is transferred into a living trust, BSD is payable. ABSD may also be payable, depending on the profile of the beneficial owner(s) of the residential property transferred into the trust.

Where a living trust is structured such that there is no identifiable beneficial owner at the time when the residential property is transferred into the trust, ABSD did not apply. A living trust refers generally to a trust created by an individual (i.e. the settlor) when he/she is still alive. The settlor transfers his/her property and assets to the trustee who will be responsible for managing them for the benefit of the beneficiaries of the trust who may or may not have been identified when the living trust was created.

## Key Changes to ABSD (Trust)

On 8 May 2022, the Singapore Government announced changes to the ABSD regime by imposing ABSD at the rate of 35% for **all** conveyance, assignments or transfers on sale and purchase of residential property(ies) into a living trust that occur **on or after 9 May 2022** (regardless of whether there are identifiable beneficial owners of the residential property) ("**ABSD (Trust)**"). ABSD (Trust) is to be paid upfront when the residential property(ies) is transferred into the living trust, but is subject to remission if certain conditions (as set out below) are met.

The new ABSD (Trust) does not apply to residential properties that are held on trust before 9 May 2022.



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## Who Pays ABSD (Trust)?

The trustee of any trust pays the ABSD (Trust) except when it is acting in the following capacity:

- (a) trustee for a collective investment scheme;
- (b) trustee-manager for a business trust; and
- (c) trustee for a housing developer.

This is because a trustee acting in the capacity described in (a), (b) and (c) above is already subject to ABSD (Entity) and ABSD for housing developers respectively when it acquires residential property.

## Remission of ABSD (Trust)

The trustee may make a claim to the Commissioner of Stamp Duties ("**Commissioner**") for the remission of ABSD (Trust) via a refund if the following conditions set out in the Stamp Duties (Trusts for Identifiable Individual Beneficiary) (Remission of ABSD) Rules 2022 are met:

- the residential property is held on trust for "identifiable individual beneficiaries" only;
- ABSD (Trust) on the instrument has been paid; and
- the claim is made within six months after the date of execution of the instrument or such longer period as the Commissioner may allow in a particular case.

An "identifiable individual beneficiary" for whom an estate or interest in a residential property is held on trust, refers to an individual who:

- is identified in the declaration of trust as a beneficiary of the estate or interest whether solely or together with another; and
- who, because of the trust, has beneficial ownership of the estate or interest that cannot be varied or revoked, or be subject to any condition subsequent, under the terms of the trust.

but excludes an individual who is entitled to any estate or interest in property in remainder or reversion.

The following individuals are not "identifiable individual beneficiaries":

- an individual who has not been born on the date of the declaration of trust;
- an individual who is entitled only to the income of the property under the trust; and
- an individual whose estate or interest in the property under the trust is a contingent or discretionary interest, or who becomes entitled to an estate or interest in the property only upon revocation of the trust.

The amount to be refunded will be based on the difference between the ABSD (Trust) paid and the ABSD payable based on the respective profile of the beneficial owners of the residential property in

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the transaction (i.e. the ABSD rate applicable to the beneficial owner who owns the highest number of residential properties will be used to calculate the ABSD payable). The residential property being transferred into the living trust will also be included in counting the number of residential property(ies) of the identifiable beneficial owner.

## Comments

This change means that fixed trusts rather than discretionary trusts may be the appropriate structure to hold residential properties for succession planning purposes. Do note that if the identifiable beneficial owner is a Singapore Citizen and the residential property in the transaction is his/her first residential property, a full refund of ABSD (Trust) of 35% could be obtained, provided also that the trust deed is carefully drafted such that it is an irrevocable fixed trust.

If you have any queries on the above development, please feel free to contact our team below.

## Reference Materials

For more information on the ABSD (Trust) and ABSD regime as a whole, please click on the following links to the websites of the Inland Revenue Authority of Singapore ("**IRAS**") and the Ministry of Finance ("**MOF**"):

- MOF press release dated 8 May 2022 "[Additional Buyer's Stamp Duty \(ABSD\) For Residential Properties Transferred Into A Living Trust](#)".
- IRAS webpage on "[Additional Buyer's Stamp Duty \(ABSD\)](#)".

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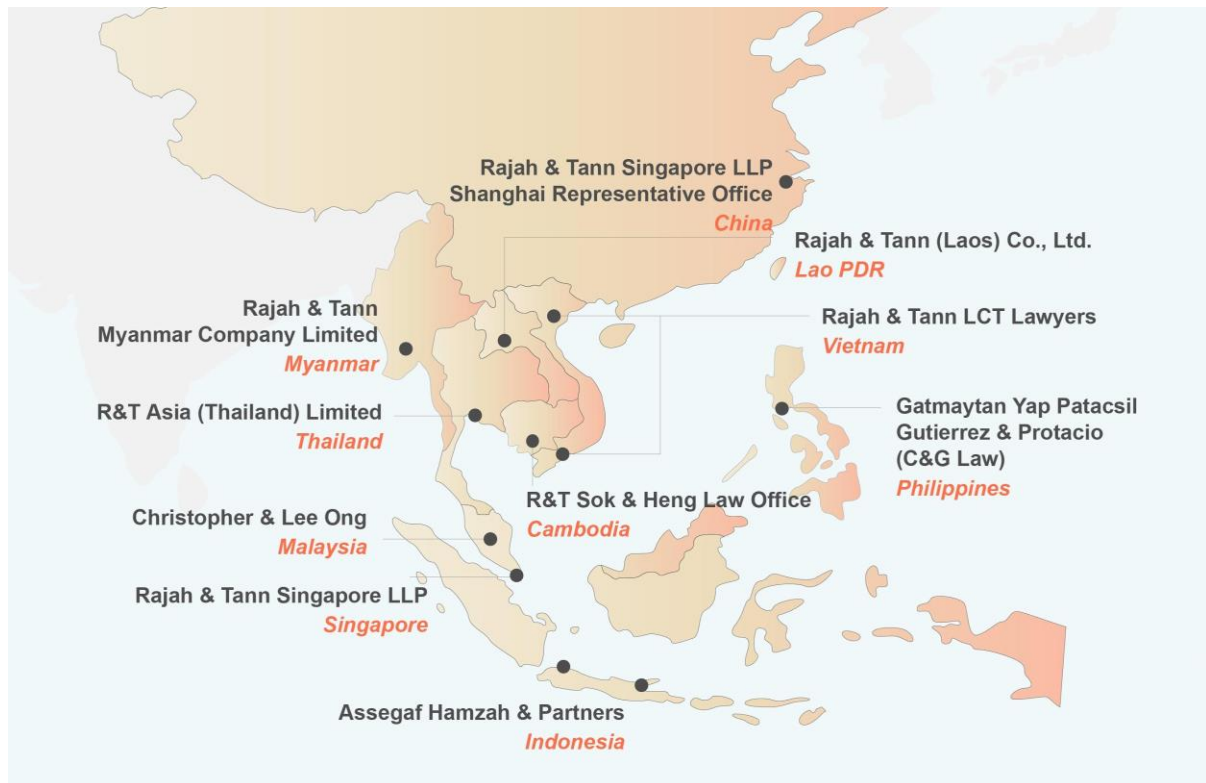
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