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Additional Conveyance Duties to be Imposed on Transfers of Equity Interests in Property Holding Entities into Living Trusts

Introduction

On 9 May 2022, the Stamp Duties (Amendment) Bill 2022 ("**Bill**") was introduced in Parliament. The Bill seeks to effect two main changes:

- (a) Introduce the Additional Conveyance Duties for Trust ("**ACD (Trust)**"), which will be payable on transfers of equity interests in property-holding entities ("**PHEs**") into a living trust, provided the significant ownership threshold has been reached; and
- (b) Sets out the stamp duty payable on the renunciation of an interest in a residential property held on bare trust.

The introduction of the Bill follows the Government's announcement on 8 May 2022 that an additional buyer's stamp duty ("**ABSD**") of 35% would be imposed on any conveyance, assignment or transfer on sale of residential properties to a trustee to hold on trust (and any instrument chargeable in like manner) that occurs on or after 9 May 2022. For more information, please see our Legal Update on this topic, available [here](#). Together, these measures are intended to plug a gap in the existing ACD and ABSD regime relating to the transfer of property, or equity interests in PHEs, into a living trust.

This Update provides a summary of the key points of the Bill.

Introduction of ACD (Trust)

Under the current ACD regime, ACD applies to transfers of equity interests in PHEs into living trusts with identifiable beneficial owners who are or become significant owners of the PHEs. However, if there is no identifiable beneficial owner at the time of transfer, ACD may not apply.

The introduction of ACD (Trust) aims to address and close this gap. ACD (Trust) will be payable on transfers of equity interests in PHEs into **all** living trusts where the significant ownership threshold has been reached, even if there is no identifiable beneficial owner of the equity interests at the time of transfer. This will apply to transfers executed **on or after 10 May 2022**.

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- **What is a PHE** – A PHE is an entity which has at least 50% of its total tangible assets comprising prescribed immovable properties in Singapore.
- **What is a significant owner** – A significant owner of a PHE refers to a person or an entity who beneficially owns more than or equal to 50% of the equity interests in the PHE, or carries voting power of more than or equal to 50% either on its own or with its associates. The Bill provides that, in determining whether the threshold for significant ownership is reached in a case of a living trust with non-identifiable beneficial owners, one must consider the equity interests that the trustee holds for the trust, together with those held by his associates.
- **What is the ACD (Trust) rate** – The ACD (Trust) rates will be the same as the existing ACD rates for the transfer of equity interests in PHEs.

Stamp Duty on Renunciation of Interest in Residential Property Held on Trust

The Bill sets out the stamp duty treatment where interest in a residential property held in a bare trust is renounced by the beneficial owner. The renunciation by the beneficiary results in a change in beneficial owner of the trust residential property, as the beneficial ownership of the trust residential property is transferred back to the settlor.

Applicability – This provision will apply in cases where:

- (a) A residential property is transferred into a living trust on or after 10 May 2022;
- (b) All the beneficial owners of the residential property are identified at the time of transfer; and
- (c) A beneficial owner of that property renounces his interest in the property on or after 10 May 2022.

Procedure upon renunciation – The beneficial owner who renounces his interest must, within the prescribed period after the date of the disclaimer or renunciation, notify the settlor and the Commissioner of Stamp Duties ("**Commissioner**") in the prescribed manner, in a notice in the prescribed form (a section 22C notice). Failure to do so is an offence and will be liable on conviction to a fine not exceeding S\$1,000.

If the beneficial owner fails to make the required notice, the Commissioner may also give such notice to the beneficial owner and the settlor.

Stamp duty payable – The settlor will have to pay, within a specified period, the applicable buyer's stamp duty ("**BSD**") and ABSD.

The original beneficiary may also have to pay seller's stamp duty ("**SSD**") if the renunciation is made within the SSD holding period.

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Comments

The introduction of ACD (Trust) may serve as a disincentive for the use of living trusts in succession planning – specifically, to hold equity interests in PHEs, as well as to hold residential properties. The Bill has yet to be passed in Parliament, but is set for its Second Reading. We will continue to monitor the progression of the Bill and update you on any further developments.

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

Reference Materials

For more information on the ACD (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 9 May 2022 "[Additional Conveyance Duties For Equity Interests Of Property Holding Entities Transferred Into A Living Trust](#)".
- IRAS webpage on "[Additional Buyer's Stamp Duty \(ABSD\)](#)".

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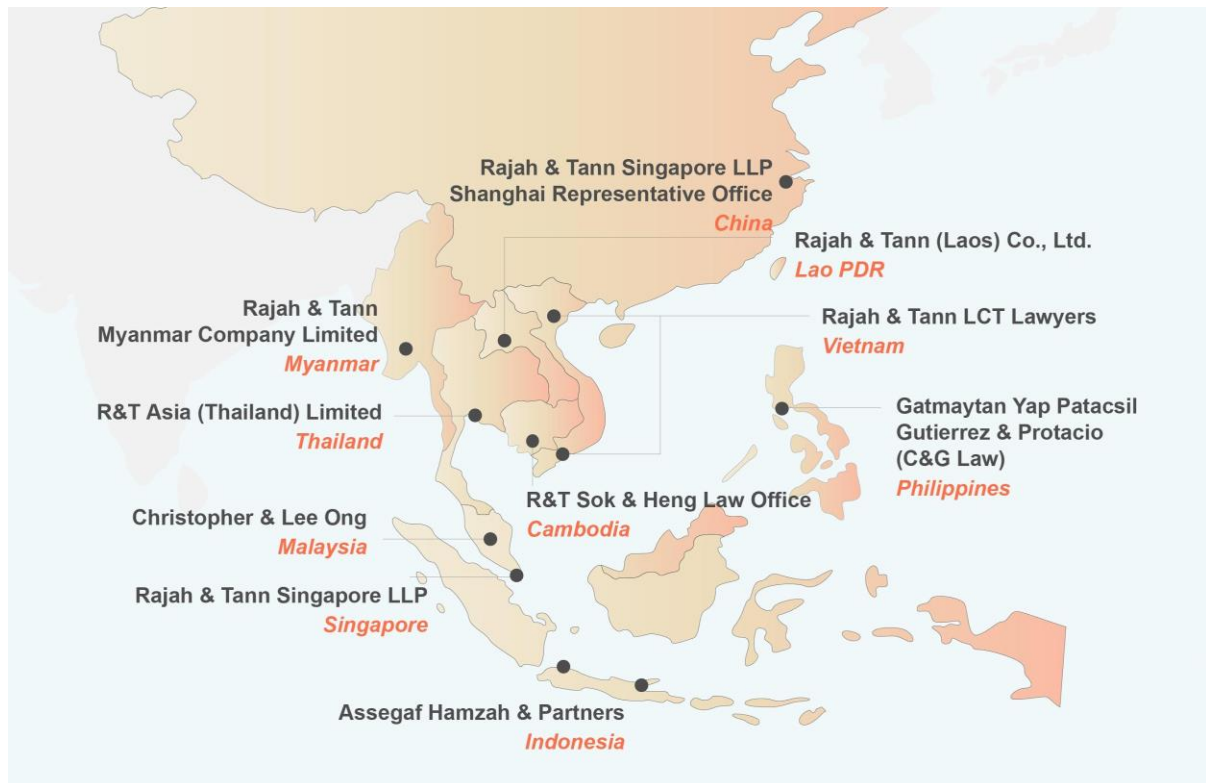
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