

Additional Buyer's Stamp Duty on Purchase of Residential Properties – Implications and Impact on Singapore Property Developers

The Inland Revenue Authority of Singapore (IRAS) recently issued guidance on the implementation of the additional buyer's stamp duty (ABSD). This is payable on the purchase or acquisition of private residential properties. In this issue of Tax Alert, we give an overview of the new rules and the impact on property developers in Singapore.



Background

The IRAS, in its e-Tax Guide published on 7 December 2011 (e-Tax Guide), announced the implementation of ABSD which is payable on the purchase or acquisition of private residential properties (including residential land).

ABSD applies to contracts or agreements, or documents of transfer (whichever is the earlier), dated on or after 8 December 2011. In the case where an option to purchase was granted on or before 7 December 2011, ABSD may be remitted upon application to the IRAS, provided that it is exercised on or before 28 December 2011.

Briefly, the ABSD affects foreigners, companies, and Singapore permanent residents, as well as Singapore citizens.

Additional Buyer's Stamp Duty Rate and Applicable Documents

Before the introduction of the ABSD, buyer's stamp duty (BSD) was already payable on the purchase of

real estate in Singapore at graduated rates of between one and three percent. This was applied on the total purchase price or market value, whichever was higher. The introduction of the ABSD, which is payable in addition to the BSD, does not change the BSD regime in Singapore. However, the ABSD is applied at a flat rate basis to the actual price paid or market value of the property, whichever is the higher.

In the case of corporate property developers (local or otherwise) which purchase residential land or property, ABSD would be payable at the rate of 10 percent, unless remission applies (see below for further details).

Timing of Payment of ABSD

In the same manner as BSD, ABSD is payable within 14 days (where the document is executed in Singapore) of the following dates:

- **date of exercise** of the Option to Purchase or contract
- **date of Sale & Purchase Agreement** (where no Option to Purchase is granted)

- **date of transfer** where the Option to Purchase and the Sale & Purchase Agreement are not available or not applicable.

Where the document is executed outside of Singapore, BSD and ABSD must be paid within 30 days of the receipt of the relevant document in Singapore.

Development Sites – Possibility of Remission

Specifically for corporate developers, development projects with more than four residential units may qualify for remission from ABSD. This is provided that the developer carries out the intention to develop the residential properties for sale.

The IRAS stated in the e-Tax Guide that remission of ABSD is allowed on the purchase of vacant residential land (including sites purchased from the Singapore Government), development sites, and en-bloc purchases of residential properties for the purpose of housing developments of more than four units.

However, the developer (who must hold a housing developer licence issued by the Controller of Housing) must provide an undertaking (to be provided to the IRAS by the due date for stamping) that the developer will:

- a) **develop and dispose** of all the residential units in the new development within five years of the date of contract or agreement to purchase the site
- b) **produce the Qualifying Certificate** issued by the Controller of Residential Property where relevant and **housing developer licence** issued by the Controller of Housing within two years of the date of contract or agreement
- c) **produce proof of piling and foundation works** and demolition works within two years of the date of contract or agreement
- d) **produce proof of disposal** of all residential units in the development within five years of the date or contract or agreement to purchase the site.

Where condition a) above is not met, the ABSD (with interest) becomes payable immediately upon the expiry of the five year period. Where condition b) or c) above is not met, ABSD (with interest), becomes payable immediately upon the expiry of the two year period.

Our Comments

This latest round of Government measures intended to cool the Singapore residential property market is the strongest yet. The policy intent appears to address speculative residential property buying. At the same time, it is to ensure that Singaporean home buyers are not over-stretched in their residential property purchases. This is particularly so when the global economy appears to be bleak in the near to medium term.

While the Government's measures are well-intentioned, they may be too broad. By imposing the ABSD on all

corporate entities, both local and foreign developers are also caught. Although a remission for developers is possible, this remission comes with conditions. Where the conditions cannot be met, the ABSD (with interest) is applicable. For many developers, getting the necessary approvals, developing the residential units and subsequently selling all units within the five year timeframe may not be so easily achievable. ABSD may ultimately become an additional cost to developers.

To counter the effects of the ABSD, developers may consider offering to absorb both the ABSD and the three percent BSD for home buyers in their property launches. Such offers may defeat the Singapore government's policy intention of reducing speculative residential property buying by Singaporeans and permanent residents.

When the economy bounces back over the longer term, it is unlikely that developers will continue to absorb both the ABSD and the three percent BSD. They may then pass on their ABSD to home-buyers for future residential property transactions. In this scenario, all home buyers, including first-time home owners, will be affected.

The Government's objective of implementing ABSD is to stabilise residential property prices and this in turn should help in preventing residential property prices from rising to unsustainable levels in the short to medium term. However, we hope that this new measure would not create a dampening effect on Singapore as an alternative investment destination against the backdrop of a weakening global economy.

How we can help

As a committed tax advisor to our clients, we welcome any opportunities to discuss the relevance of the above matters to your business.

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