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Stamp Duty Relief for Transfers Between Associated Companies

Stamp Act 1949, s 15A

| by Samantha Liew Wee Nie |

Since its introduction in 1989, the provisions governing the relief for transfers of property between associated companies have remained unchanged for almost 30 years.^[1]

Just last month, the Finance Act 2018 introduced amendments which came into force on 28 December 2018.^[2] These amendments are identical to those proposed in previous years in the Bills for the Stamp (Amendment) Act 2016 and the Stamp (Amendment) Act 2017, which were withdrawn by the government.

Additional conditions

In essence, the amendments introduced additional conditions and requirements to the relief application. Companies are now additionally required to satisfy the collector of stamp duty (“the Collector”) of the following:

1. the transfer is to achieve greater efficiency in operation;^[3]
2. the transferee is a company with limited liability incorporated in Malaysia;^[4]
3. both transferor and transferee must remain associated for a period of three years from the date of transfer;^[5] and

4. the transferee must hold the property that it has acquired for a period of three years from the date of transfer.^[6]

Statutory declaration

In assessing the relief application, the Collector may require a statutory declaration by an advocate and solicitor, or, in the case of Sabah and Sarawak, an advocate of the High Court, and such further evidence as he deems necessary.^[7]

Clawback

Where relief has been granted, both transferor and transferee must, within 30 days of occurrence of any circumstances that would result in non-fulfilment of any of the conditions, notify the Collector in writing.^[8] In the event the declaration or supporting evidence provided in connection with the relief application is subsequently found to be untrue, the relief will be revoked and the stamp duty together with interest at 6% per annum will be payable.^[9]

Click [here](#) to view the Finance Act 2018.

If you have any queries, please contact the author (wnl@lh-ag.com) or her team partner, [Tay Weng Hwee \(tw@lh-ag.com\)](mailto:tw@lh-ag.com).

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^[1] Section 11 of the Stamp (Amendment and Extension) Act 1989 introduced a new s 15A to the then Stamp Ordinance 1949, which came into force on 1 October 1989

^[2] See s 67 of the Finance Act 2018

^[3] See s 67(a) of the Finance Act 2018, which introduced additional conditions under s 15A(2) of the Stamp Act 1949

^[4] *Ibid*

^[5] Finance Act 2018, s 67(b)(i)

^[6] See s 67(b)(ii) of the Finance Act 2018, which introduced a new paragraph (d) to s 15A(4) of the Stamp Act 1949

[7]

See s 67(c) of the Finance Act 2018, which introduced new subsections (5), (6) and (7) to s 15A of the Stamp Act 1949

[8]

ibid

[9]

ibid