

Stamp Duties (Relief from Stamp Duty upon Acquisition of Shares of Companies) Rules 2013

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THE SCHEDULE

No. S 163

STAMP DUTIES ACT (CHAPTER 312)

STAMP DUTIES
(RELIEF FROM STAMP DUTY UPON
ACQUISITION OF SHARES OF COMPANIES)
RULES 2013

In exercise of the powers conferred by sections 15A and 77 of the Stamp Duties Act, the Minister for Finance hereby makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Stamp Duties (Relief from Stamp Duty upon Acquisition of Shares of Companies) Rules 2013 and shall come into operation on 1st April 2010.

Definitions

2. In these Rules —

“local employee” means an employee of the acquiring company —

- (a) who is a citizen of Singapore or a Singapore permanent resident; and
- (b) who makes contributions in respect of income derived from his employment with the acquiring company to the Central Provident Fund which are obligatory under the Central Provident Fund Act (Cap. 36),

but excludes a director as defined under section 4 of the Companies Act (Cap. 50);

“ultimate holding company” has the same meaning as in section 5A of the Companies Act.

Prescribed qualifying period

3. For the purposes of section 15A(4)(b) of the Act, the prescribed period which an acquiring company may elect to replace the qualifying period referred to in section 15A(4)(a) of the Act is as follows:

- (a) in the case where the qualifying period in the first instance is the financial year of the acquiring company in which the acquisition referred to in section 15A(3)(a) of the Act occurs, a period of 12 months ending on and including the date of —
 - (i) the acquisition referred to in section 15A(3)(a) of the Act; or

- (ii) a subsequent acquisition of ordinary shares in the target company by the acquiring company or the acquiring subsidiary that takes place before the end of the financial year of the acquiring company in which the acquisition referred to in sub-paragraph (i) falls; or
- (b) in the case where the qualifying period in the first instance is the financial year of the acquiring company in which the acquisition referred to in section 15A(3)(c) of the Act occurs, either of the following periods:
 - (i) the shorter of the following:
 - (A) a period of 12 months ending on and including the date of the acquisition referred to in section 15A(3)(c) of the Act; or
 - (B) a period commencing immediately after the date of the latest acquisition of ordinary shares in a target company by the acquiring company or acquiring subsidiary, as the case may be, that occurs in a qualifying period in relation to an acquisition referred to in section 15A(3)(a) of the Act and in respect of which a deduction under section 37L of the Income Tax Act (Cap. 134) has been claimed, and ending on and including the date referred to in sub-paragraph (A); or
 - (ii) the shorter of the following:
 - (A) a period of 12 months ending on and including the date of an acquisition that occurs after but in the same financial year as that in which the acquisition referred to in section 15A(3)(c) of the Act occurs; or
 - (B) a period commencing immediately after the date of the latest acquisition of ordinary shares in a target company by the acquiring company or acquiring subsidiary, as the case may be, that occurs in a qualifying period in relation to an acquisition referred to in section 15A(3)(a) of the Act and in respect of which a deduction under section 37L of the Income Tax Act has been claimed, and ending on and including the date referred to in sub-paragraph (A),

provided that at the end of that financial period of the acquiring company in which the acquisition referred to in paragraph (a)(i) or (b)(i)(A), as the case may be, falls, the acquiring company and its acquiring subsidiaries own together in total more than 50% (in the case of paragraph (a)) or 75% or more (in the case of paragraph (b)) of the total number of ordinary shares in the target company.

Conditions precedent for relief

4.—(1) For the purposes of section 15A(1) of the Act, the conditions precedent for relief from ad valorem stamp duty on an instrument made for the purposes of or in connection with a qualifying acquisition in a target company by an acquiring company or any acquiring subsidiary are as follows:

- (a) in the case of an acquisition referred to in section 15A(3)(a) or (c) of the Act —
 - (i) the acquiring company —
 - (A) is carrying on a trade or business in Singapore on the date of the acquisition of the shares;
 - (B) has in its employment at least 3 local employees at all times during the period of 12 months immediately before that date;
 - (C) is not connected to the target company for at least 2 years immediately before that date, unless paragraph (2) applies; and
 - (D) in a case where the acquiring company is a subsidiary of another company within the meaning of section 5 of the Companies Act (Cap. 50), has a Singapore company as its ultimate holding company on that date;
 - (ii) where the acquisition is made by the acquiring subsidiary, the acquiring subsidiary —
 - (A) does not carry on a trade or business in Singapore or elsewhere on the date of the acquisition of the shares; and
 - (B) does not claim any deduction for any capital expenditure or transaction costs under section 37L of the Income Tax Act (Cap. 134) for the financial year in which the acquisition occurs or any stamp duty relief under section 15A of the Act for that financial year;

- (iii) where the acquisition is made by the acquiring subsidiary and, on the date of the acquisition of the shares (being a date on or after 17th February 2012), the acquiring subsidiary is indirectly owned by the acquiring company through one or more intermediate companies, every such intermediate company —
 - (A) is wholly owned (whether directly or indirectly) by the acquiring company on that date;
 - (B) is incorporated for the primary purpose of acquiring and holding shares in other companies;
 - (C) does not carry on a trade or business in Singapore or elsewhere on that date; and
 - (D) does not claim any deduction for any capital expenditure or transaction costs under section 37L of the Income Tax Act for the financial year in which the acquisition occurs or any stamp duty relief under section 15A of the Act for that financial year; and
 - (iv) the target company, or a subsidiary wholly owned by the target company (directly, in the case of a qualifying acquisition the date of which is before 17th February 2012; or whether directly or indirectly, in the case of a qualifying acquisition the date of which is on or after 17th February 2012) —
 - (A) carries on a trade or business on the date of the acquisition of the shares; and
 - (B) has in its employment at least 3 employees at all times during the period of 12 months immediately before that date;
- (b) in the case of an acquisition referred to in section 15A(3)(d) of the Act —
- (i) the acquiring company —
 - (A) is carrying on a trade or business in Singapore on the date of the acquisition of the shares;
 - (B) has in its employment at least 3 local employees at all times during the period of 12 months immediately before that date;
 - (C) is not connected to the target company for at least