

21 December 2016

Stamp Duty Relief under s 15A Stamp Act 1949

The Stamp (Amendment) Bill 2016 (“the Bill”) was tabled before Parliament for first reading on 23 November 2016.

Current provisions under s 15A

Currently, s 15A of the Stamp Act 1949 (“the Act”) allows companies to apply for stamp duty relief in case of transfer of property between associated companies. Relief may be granted by the Collector of Stamp Duties (“the Collector”) if the following conditions are met:

1. The effect of the instrument of transfer is to transfer a beneficial interest in property from one company with limited liability (“the transferor”) to another company with limited liability (“the transferee”); and
2. The transferor and the transferee are associated companies, whereby one of them is the beneficial owner of not less than 90% of the issued share capital of the other, or a third company with limited liability is the beneficial owner of not less than 90% of the issued share capital of the transferor and the transferee (“the holding company”).

Companies applying for relief must show to the satisfaction of the Collector that the instrument of transfer was not executed in connection with an arrangement where —

1. the consideration or any part of the consideration for the transfer was to be provided or received, directly or indirectly, by a person other than a company which at the time of execution of the instrument was associated with the transferor or the transferee;
2. the beneficial interest in property was previously transferred, directly or indirectly, by such a person; or
3. the transferor and the transferee were to cease to be associated by reason of a change in the percentage of the issued share capital of the transferee in the beneficial ownership of the transferor or the holding company.

Key changes to s 15A under the Bill

The Bill proposed a holding period of three years which requires companies applying for relief to also show that the instrument of transfer was not executed in connection with an arrangement where —

1. the transferee disposes of the property that it has acquired within three years from the date of transfer of the property; or
2. the transferor and the transferee are associated for a period of three years from the date of transfer of the property.

In the event the supporting evidence provided in connection with such application is subsequently found to be untrue, the new clawback provisions proposed in the Bill allow the government to recover the stamp duty relief granted together with interest at 6% per annum calculated from the date the instrument of transfer ought to have been stamped with full duty.

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