



# SINGAPORE – NEW DUTIES PAYABLE IN RELATION TO TRUSTS WITH RESIDENTIAL PROPERTY AND PROPERTY HOLDING ENTITIES

The Singapore Ministry of Finance announced 3 new types of duties in relation to trusts on 8 and 9 May 2022 to plug a gap in the existing Additional Buyer's Stamp Duty (ABSD) and Additional Conveyance Duties (ACD) regime. Interested persons may wish to seek legal and tax advice on their trust structures.

## Summary

1. **ABSD (Trust)** – On or after 9 May 2022, ABSD of 35% will apply on any transfer of residential property into a living trust. ABSD (Trust) is payable upfront, and the trustee may apply to the Inland Revenue Authority of Singapore (IRAS) for a refund of all or part of the ABSD (Trust) paid if all remission conditions are met.
2. **ACD (Trust)** – On or after 10 May 2022, all transfers of equity interests in property holding entities (PHEs) into a living trust will be subject to ACD.
3. **Stamp Duty on Renunciation of Interest in Residential Property Held on Trust** – On or after 10 May 2022, the usual applicable stamp duties for a transfer of interest in residential property will apply to the transferor and transferee when a beneficiary of residential property held on trust renounces its interest. Notice will also need to be given to the settlor and the Commissioner of Stamp Duties.

## Additional Buyer's Stamp Duty (Trust)

Before 9 May 2022, when a residential property is transferred into a living trust, the stamp duties payable depended on the profile of the beneficial owners. Where the trust was structured such that there was no identifiable beneficial owner at the time of the transfer, ABSD was not payable.

On or after 9 May 2022, the new ABSD (Trust) of 35% applies to all transfers of residential property into a living trust. ABSD (Trust) is required to be paid upfront to IRAS at the time of transfer, regardless of the profile of the beneficial owners and regardless of whether they are identifiable at the time of transfer.

As a concession, IRAS will allow for remission of all or part of the ABSD (Trust) paid, with the refund amount being the difference between the ABSD (Trust) rate of 35% and the ABSD rate corresponding to the profile of the beneficial owner with the highest applicable ABSD rate.

A trustee may apply to IRAS for remission of ABSD (Trust) within 6 months after execution of the instrument if all the following conditions are met:

- All beneficial owners of the residential property held on trust are identifiable individuals;
- Beneficial ownership of the residential property has been vested in all of these beneficial owners at the time of property transfer into the trust; and



- The beneficial ownership cannot be varied or revoked, or be subject to any condition subsequent, under the terms of the trust.

The application for remission must be made within 6 months from the date of execution of the instrument for transfer of the residential property. The refund amount will be based on the difference between the ABSD (Trust) rate of 35% and the ABSD rate corresponding to the profile of the beneficial owner with the highest applicable ABSD rate.

More information may be found at:

- [https://www.iras.gov.sg/taxes/stamp-duty/for-property/buying-or-acquiring-property/additional-buyer's-stamp-duty-\(absd\)](https://www.iras.gov.sg/taxes/stamp-duty/for-property/buying-or-acquiring-property/additional-buyer's-stamp-duty-(absd))
- [https://www.iras.gov.sg/taxes/stamp-duty/for-property/appeals-refunds-reliefs-and-remissions/common-stamp-duty-remissions-and-reliefs-for-property/remission-of-absd-\(trust\)](https://www.iras.gov.sg/taxes/stamp-duty/for-property/appeals-refunds-reliefs-and-remissions/common-stamp-duty-remissions-and-reliefs-for-property/remission-of-absd-(trust))
- [https://www.mof.gov.sg/news-publications/press-releases/additional-buyer-s-stamp-duty-\(absd\)-for-residential-properties-transferred-into-a-living-trust](https://www.mof.gov.sg/news-publications/press-releases/additional-buyer-s-stamp-duty-(absd)-for-residential-properties-transferred-into-a-living-trust)

### Additional Conveyance Duties (Trust)

A property holding entity is an entity which has at least 50% (i.e. asset ratio) of its total tangible assets comprising residential property in Singapore. A significant owner of a PHE refers to a person or entity who beneficially owns at least 50% equity interest or voting power in a PHE either on its own or with its associates.

ACD has applied to and continues to apply to transfers of equity interests in PHEs into living trusts with identifiable beneficial owners who are or become significant owners of the PHEs. However, before 10 May 2022, where there was no identifiable beneficial owner at the time when the equity interests in PHEs are transferred into the trust, ACD may not apply.

On or after 10 May 2022, the new ACD (Trust) applies to transfers of equity interests in PHEs into a living trust, regardless of whether there is any identifiable beneficial owner at the time of the transfer.

At the time of writing, the Additional Conveyance Duties are as follows, levied on the prevailing market value of the PHE's underlying residential property at the time of the qualifying equity sale/transfer, pro-rated by the percentage of the beneficial interest transferred in the PHE.

- Additional Conveyance Duties for Buyers (ACDB):
  - > Existing Buyer's Stamp Duty at 1% to 4%; plus
  - > Existing Additional Buyer's Stamp Duty at 40% (flat rate)
- Additional Conveyance Duties for Sellers (ACDS):
  - > Seller's Stamp Duty at 12% (flat rate)

More information can be found at:

- [https://www.iras.gov.sg/taxes/stamp-duty/for-property-holding-entities-\(phe\)/basics-of-stamp-duty-for-property-holding-entities/overview-of-additional-conveyance-duties-\(acd\)](https://www.iras.gov.sg/taxes/stamp-duty/for-property-holding-entities-(phe)/basics-of-stamp-duty-for-property-holding-entities/overview-of-additional-conveyance-duties-(acd))
- [https://www.iras.gov.sg/taxes/stamp-duty/for-property-holding-entities-\(phe\)/basics-of-stamp-duty-for-property-holding-entities/determining-the-additional-conveyance-duties-payable](https://www.iras.gov.sg/taxes/stamp-duty/for-property-holding-entities-(phe)/basics-of-stamp-duty-for-property-holding-entities/determining-the-additional-conveyance-duties-payable)
- <https://www.mof.gov.sg/news-publications/press-releases/additional-conveyance-duties-for-equity-interests-of-property-holding-entities-transferred-into-a-living-trust>



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

On or after 10 May 2022, when interest in a residential property held on trust is renounced by a beneficial owner, the usual stamp duties (Seller's Stamp Duty, Buyer's Stamp Duty and Additional Buyer's Stamp Duty, as applicable) for a transfer of interest in residential property will apply to the transferor and transferee on the disposal and acquisition of interest.

The beneficial owner who renounces its interest must notify the settlor and the Commissioner of Stamp Duties of the renunciation in writing through the prescribed form and within a prescribed period. Failure to do so is an offence and will be liable on conviction to a fine not exceeding S\$1,000. The original beneficial owner may also be liable for SSD upon the renunciation.

The settlor as the new beneficial owner upon the renunciation will have to pay the applicable stamp duty (e.g. BSD and/or ABSD).

More information can be found at:

- [https://www.iras.gov.sg/taxes/stamp-duty/for-property/selling-or-disposing-property/renunciation-of-interest-in-trust-over-residential-property-by-beneficial-owner-\(section-22c\)](https://www.iras.gov.sg/taxes/stamp-duty/for-property/selling-or-disposing-property/renunciation-of-interest-in-trust-over-residential-property-by-beneficial-owner-(section-22c))
- <https://www.mof.gov.sg/news-publications/press-releases/additional-conveyance-duties-for-equity-interests-of-property-holding-entities-transferred-into-a-living-trust>



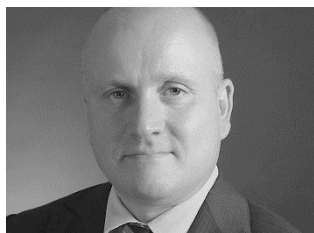
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## ABOUT JTC KENSINGTON

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JTC is a publicly listed, global professional services business with deep expertise in fund, corporate and private client services.

Every JTC person is an owner of the business and this fundamental part of our culture aligns us with the best interests of all of our stakeholders.

Our purpose is to maximise potential and our success is built on service excellence, long-term relationships and technology capabilities that drive efficiency and add value.

### We value shared ownership

- > We operate around the principle that if our people have a stake in the business, they will do a better job for our clients.

### We value relationships

- > We aim to work with clients who share our belief in the importance of building strong relationships over time.

### We invest in our people

- > Over 70% of our employees hold a relevant professional qualification or are working towards this through our dedicated JTC Academy.

### We embrace technology

- > Our market-leading systems and operating platforms are robust, powerful and flexible.



## REGULATION AND TERMS OF BUSINESS

JTC Kensington is the brand name of Kensington Trust Group, a part-owned associate of JTC Group. Kensington Trust Group entities that carry on regulated business are (respectively): regulated by the Labuan Financial Services Authority, the Companies Commission of Malaysia and the Monetary Authority of Singapore.

JTC Group entities that carry on regulated business are (respectively): regulated by the British Virgin Islands Financial Services Commission; the Cayman Islands Monetary Authority; the Guernsey Financial Services Commission; the Jersey Financial Services Commission; the Commission de Surveillance du Secteur Financier and the Ordre des Experts-Comptables (Luxembourg); the Financial Services Commission (Mauritius); De Nederlandsche Bank (Netherlands); the South African Financial Sector Conduct Authority (FSCA) as an authorised financial services provider; chartered and regulated to provide trust services by the South Dakota Division of Banking in South Dakota (USA); a member of l'Association Romande des Intermédiaires Financiers (Switzerland)\*; licensed by the Isle of Man Financial Services Authority and by the Abu Dhabi Global Market (ADGM); registered with the Dubai Financial Services Authority, the US Securities and Exchange Commission and the Commodity Futures Trading Commission (USA); authorised by the Department of Justice and Equality of the Republic of Ireland to operate as trust or company service provider and authorised and regulated by the Central Bank of Ireland and by the Financial Conduct Authority (UK).

\* l'Association Romande des Intermédiaires Financiers (ARIF) is a self-regulatory body approved by the Swiss Financial Market Supervisory Authority (FINMA) for the supervision of financial intermediaries covered by Article 2 para.3 of the Swiss Federal Law on Combating Money Laundering and Financing of Terrorism in the Financial Sector (LBA). ARIF is also recognized by FINMA as a professional organization for the outlating of rules of conduct relating to the exercise of the profession of independent asset manager within the meaning of the Swiss Federal Act on Collective Investment Schemes (CISA).

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