

# Bullet Points on Latest ABSD Rules on Trust

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# Inter vivos Trust

## Between The Living

A living trust is a trust created in the lifetime of the person who owns the asset, and who decides to put the assets into the trust. This person is called the settlor. A living trust differs from other types of trusts in that it is a live entity when the settlor is alive. Other trusts include a Standby Trust, which is a trust where assets can be transferred to the trust at a later date and only activated in defined events such as death or mental incapacity. There is also a testamentary trust, which is a trust that comes into effect after the settlor's death.

The trust can take the form of a simple deed which must be signed, sealed, and delivered to the Inland Revenue Authority of Singapore to be stamped for a nominal fee of \$10.

It does not need to be registered.

- 1. The Government announced today that Additional Buyer's Stamp Duty (ABSD) of 35% will apply on any transfer of residential property into a living trust<sup>[1]</sup>, where the transfer occurs on or after 9 May 2022**
- 2. Today, when a residential property is transferred into a living trust, Buyer's Stamp Duty (BSD) is payable. ABSD may also be payable, depending on the profile of the beneficial owner(s) of the residential property transferred into the trust.**
- 3. Where the living trust is structured such that there is no identifiable beneficial owner at the time when the residential property is transferred into the trust, ABSD currently does not apply.**
- 4. Arising from its periodic policy review, the Government will introduce ABSD (Trust) at 35%, to address and close this gap. With this change, ABSD will be payable even if there is no identifiable beneficial owner at the time the residential property is transferred into a trust. ABSD aims to promote a stable and sustainable residential property market, and as such, it should apply to transfers of residential properties into all living trusts, irrespective of whether there are identifiable beneficial owners of the residential properties transferred into such trusts.**

**5. ABSD (Trust) is to be payable upfront, when the residential property is transferred into any living trust. As a concession, a trustee may apply to IRAS for a refund of ABSD (Trust), provided that the following conditions are met:**

- a) All beneficial owners of the residential property are identifiable individuals;**
- b) Beneficial ownership of the residential property has vested in all of these beneficial owners at the time of property transfer into the trust; and**
- c) The beneficial ownership cannot be varied or revoked, or be subject to any condition subsequent, under the terms of the trust.**

**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. The application for the refund must be made to IRAS within six months after the instrument is executed. For more information, please visit [www.iras.gov.sg](http://www.iras.gov.sg).**

**into such trusts.**

*<sup>[1]</sup> A living trust is one that is created by a person (the settlor) during his or her lifetime.*

Table 1: ABSD Rates for Residential Property

Additional Buyer's Stamp Duty		Rates on or after 16 December 2021	Rates on or after 9 May 2022
<b>Singapore Citizens</b>	First residential property <sup>1</sup>	0%	0%
	Second residential property <sup>1</sup>	17%	17%
	Third and subsequent residential property <sup>1</sup>	25%	25%
<b>Permanent Residents</b>	First residential property <sup>1</sup>	5%	5%
	Second residential property <sup>1</sup>	25%	25%
	Third and subsequent residential property <sup>1</sup>	30%	30%
<b>Foreigners</b>	Any residential property <sup>1</sup>	30%	30%
<b>Entities</b>	Any residential property <sup>1</sup>	35%	35%
<b>Housing Developers<sup>2, 3</sup></b>	Any residential property	35% (remittable, subject to conditions) + 5% (non-remittable) <sup>4</sup>	35% (remittable, subject to conditions) + 5% (non-remittable) <sup>4</sup>
<b>Trustee<sup>5</sup> (NEW)</b>	Any residential property <sup>1</sup>	Based on profile of beneficial owner(s) of the residential property transferred into the trust	35%

- **What is an identifiable individual beneficial owner?**

**An identifiable beneficial owner of a trust residential property refers to an individual –**

- a. Identified in the trust deed or document as a beneficiary of the residential property; and**
- b. Who, because of the trust, has beneficial ownership of the residential property that is not, under the terms of the trust, revocable, variable, or subject to any condition subsequent.**

- **Will ABSD (Trust) be retrospectively imposed for all Singapore residential properties that are held on trust before the date ABSD (Trust) comes into effect?**

**No. ABSD (Trust) is only applicable to any transfer or settlement of residential property into a trust (whether existing or new) that is executed on or after 9 May 2022.**

**Where there is more than one instrument effecting the transfer or settlement of residential property into a trust, ABSD (Trust) is payable based on the date of execution of the first instrument (e.g. ABSD (Trust) is payable within 14 days after the date of execution of the first instrument, if the instrument is executed in Singapore). The first instrument may be the Acceptance to the Option to Purchase, the Sale & Purchase Agreement, the declaration of trust, or the settlement agreement, where applicable.**

# Remission of ABSD (Trust)

## Conditions for Remission

1. The residential property is held on trust for identifiable individual beneficiaries only

### Identifiable Individual Beneficiary

An identifiable individual beneficiary of a trust for whom an estate or interest in residential property is held on trust, is an individual –

(a) who is identified in the declaration of trust as a beneficiary of the property whether solely or together with another; and

(b) who, because of the trust, has beneficial ownership of the property (whether solely or together with another) that is not, under the terms of the trust, revocable, variable, or subject to any condition subsequent, but excludes an individual who is entitled to any estate or interest in property in remainder or reversion.

The following are not considered to be an identifiable individual beneficiary:

(a) an individual who has not been born on the date of declaration of the trust;

(b) an individual who is entitled only to the income of the property under the trust;

(c) an individual whose estate or interest in the property under the trust is a contingent or discretionary interest, or who becomes entitled to an estate or interest in the property only upon revocation of the trust.

2. ABSD (Trust) of 35% has been paid

3. The application is made within 6 months from the date of the instrument

# How to apply

You can apply for the remission via the [e-Stamping Portal](#) > “Requests” > “Apply for Assessment / Appeal / Remission” > select “E-Remission” > “Additional Buyer’s Stamp Duty (ABSD)” > “Remission – ABSD (Trust)”. If you are applying for more than one remission, please specify all applicable remissions. You will have to login with your SingPass or registered account.

Please also submit the following supporting documents with your application:

1. Copy of the trust instrument
2. Copy of the Option to Purchase / Sale and Purchase Agreement (if applicable)

For successful applicants, the refund will be made to the party liable for payment of stamp duty.

# FAQs

**I executed an Acceptance to Option to Purchase on 15 Jun 2022 to purchase a residential property on trust for my wife (Singapore citizen), who currently also owns one other residential property. I had also executed a declaration of trust to state that I am holding the property on trust for my wife who is the sole beneficial owner of this trust property. If the beneficial ownership has vested in my wife, and there are no other provisions in the trust to revoke, amend or which subject my wife's beneficial ownership in the trust property to any conditions, will I be eligible for remission of ABSD (Trust)?**

ABSD (Trust) of 35% is payable as the property was purchased on trust for your wife. You will need to make upfront payment of ABSD (Trust) before making a remission application where IRAS will assess whether the refund conditions are met. For this case, if you apply within the deadline with the necessary supporting documents, you will be eligible for remission of the difference between the ABSD (Trust) amount paid and the ABSD payable had your wife purchased the property directly in her name. As this is the second residential property owned by your wife, the total amount of ABSD refunded will be 18% (being 35% - 17%).

**I executed an Acceptance to Option to Purchase on 20 Jun 2022 to purchase a condominium unit on trust for child who is a minor (Singapore citizen). This is my child's first residential property. I also executed a declaration of trust to state that I am holding the condominium unit on trust for my child, who is the sole beneficial owner of this trust property. If the beneficial ownership has vested in my child, and there are no other provisions in the trust to revoke, amend or which subject my child's beneficial ownership in the trust property to any conditions, will I be eligible for remission of ABSD (Trust)?**

ABSD (Trust) of 35% is payable as the property was purchased on trust for your child. You will need to make upfront payment of ABSD (Trust) before making a remission application where IRAS will assess whether the refund conditions are met. For this case, if you apply within the remission deadline with the necessary supporting documents, you will be eligible for remission of the difference between the ABSD (Trust) amount paid and the ABSD payable had your child purchased the property directly in his/her name. As this is the first residential property owned by your minor child, the total amount of ABSD refunded will be the full 35% ABSD that had been paid earlier.

**I executed a declaration of trust on 9 May 2022 to declare that I am holding a condominium unit on trust for my children, Amy and Ben. The trust states that Amy beneficially owns a 50% share of the condominium unit, while Ben is only entitled to the other 50% if he graduates from university. I paid the ABSD (Trust) of 35% when the declaration of trust was executed. Will I be eligible for remission of ABSD (Trust)?**

No, you will not be eligible for remission of ABSD (Trust). One of the conditions for remission is that the beneficial owners of the trust property consist of identifiable individual beneficiaries only. As Ben's interest in the property is contingent on his graduation from university, he is not an identifiable individual beneficiary and hence this condition is not met. As such, no remission will be granted.

# FAQs

**I executed a declaration of trust on 9 May 2022 to declare that I am holding a condominium unit on trust for my minor child whose beneficial interest in the property will only vest at the age of 21. Will I be eligible for remission of ABSD (Trust)?**

No. The remission condition is based on vested beneficial ownership at the time the property is transferred into the trust. Deferred beneficial ownership that would only vest in the future will not meet the condition for ABSD (Trust) remission.

**I have submitted an application for remission of ABSD (Trust). How long is the processing time and when can I expect to receive the refund if my application is approved?**

Most applications will be processed within 2 months from the date of complete information being submitted. Where the application has been approved, the refund will be made within 1 month after approval.

**I executed an Acceptance to Option to Purchase on 1 Jul 2022 to purchase an apartment and executed a Declaration of Trust to declare that I am holding the property on trust for my child. Can I submit an application for upfront remission instead of paying 35% ABSD and then obtaining a refund?**

No, it is a condition under the Stamp Duties (Trusts for Identifiable Individual Beneficiary) (Remission of ABSD) Rules 2022 that the ABSD chargeable on the instrument has to be paid before remission can be granted.  
As such, we are unable to grant any remission of ABSD before ABSD (Trust) is paid.  
Please stamp the instrument within 14 days after the execution of the document if it is executed in Singapore or, if first executed outside Singapore, within 30 days after it has been first received in Singapore, and make payment before the due date to avoid incurring late stamping penalties.

**If I intend to execute a Will stating that my residential property will be held on trust for my child upon my death, will this trust be subject to ABSD (Trust) of 35%?**

ABSD (Trust) applies to the transfer of any residential property into a living trust on or after 9 May 2022. A living trust is defined as one that is created by a person (settlor) within his or her lifetime and does not include a testamentary trust (i.e. a trust that is made using a Will and which takes effect after the settlor's death).

As the trust in this scenario is a testamentary trust, hence ABSD (Trust) does not apply.

# Buying in trust for minors

Parents who use trusts to buy homes for their children, who are minors, typically cannot tap on home loans. Having to cough up 35 percent ABSD upfront adds to cash flow challenges of going down such a route. Buying a S\$1.5 million home in trust for minor, who is a citizen, will now involve paying S\$525,000 in ABSD, which can be refunded, in addition to buyer's stamp duty of S\$44,600.

However, parents using a trust to buy a home for a minor, who is a citizen, and want to fulfil conditions to get a refund of ABSD(Trust), should be absolutely clear that the said home belongs to the child and that the child, upon turning 21, is free to decide what to do with the home.

The funding of the purchase of the home by a parent confers no right to the parent on making decisions on the home after the child turns 21. Also, any economic benefits from the home purchased by a trust where a child is the beneficial owner accrues solely to the child. A parent cannot bank on the rental income or capital gains of a home bought in trust in the name of a child to help fund retirement needs.

# New rule hits those who buy homes via trust to avoid ABSD

When asked, MOF said: “We do not have data on transfers of residential property into trusts where ABSD was not applicable.”

MOF also said that stamp duty is payable on renunciation of interest in a residential property held on trust, and the beneficiary must inform the Commissioner of Stamp Duties within a stipulated period or risk a fine.

“If a person created a trust for residential property, and the beneficiary subsequently renounces his interest in the trust, then the rights in the property will go back to the person who created the trust. And this person who created the trust. And this person will have to pay applicable stamp duties, including ABSD,” Mr Lee said.

## ABSD-residential-properties-Living-Trust

# ACD

ACD is triggered when:

## ACDB (Buyers)

There is an acquisition of equity interest in the PHE on/after 11 Mar 2017 when:

- a. You are already a significant owner of the PHE, or
- b. You become a significant owner after the acquisition.

## ACDS (Sellers)

There is an disposal of equity interest in the PHE when:

- a. You are/were a significant owner of the PHE, and
- b. You are disposing equity interest acquired on/after 11 Mar 2017 within 3 years.

Once you are a significant owner, ACDS is applicable until you cease to be an owner of the PHE.

Terms:

- You are a significant owner if you (together with your associates) own  $\geq$  50% equity interest of voting power in the entity.
- PHE: An entity whose primary tangible assets are Singapore residential properties. Residential properties have the same definitions for ABSD purposes.

# Definition of Significant Owner

- Only transactions involving PHEs by significant owners will be affected
- A significant owner is a person who beneficially owns  $\geq 50\%$  equity interest in the PHE before or/and after the transaction
- In determining significant ownership, we will include associates who include:
  - Family members (i.e. grandparent, parent, child, grandchild, sibling and spouse)
  - Associated persons (associated by  $\geq 75\%$  voting capital and  $> 50\%$  voting power)
  - Partners in a partnership, limited partnership or limited liability partnership.

# ACD applicable when buyer is or becomes significant owner

Where a person becomes a significant owner after purchase:

Events	Equity interest in PHE	Significant Owner?	ACD Liability?
Ownership before 11 Mar '17	30%	No	NA
Acquire on/after 11 Mar '17	+10%	No*	Nil
Further acquisition	+20%	Yes**	Yes- chargeable on 20% + 10%

\*Not a significant owner because equity interest <50% - ACD not triggered

\*\*Becomes a significant owner because equity interest  $\geq$ 50% (i.e. 60%) – ACD triggered

[Annex 1](#)

[Annex 2](#)

[Annex 3](#)

# Thank you

**Any questions?**