



Shanghai Announces New Land Appreciation Tax

On 12 June 2007, the Shanghai Local Taxation Bureau issued the Notice on Issues Relating to Payment of Land Appreciation Tax on Transfer of Non-regular Residential Properties by Individuals ("Notice"), which intends to curb the hot property market and strengthen the enforcement of land appreciation tax ("LAT") in Shanghai. This update takes a look at the Notice.

Effect of Notice

LAT imposed on "non-regular" residential property

Under the Notice, the individual sellers are required to pay LAT in accordance with the current laws and regulations if they transfer their "non-regular" residential properties retained for less than three years. A "non-regular" residential property is defined in the Notice as including all properties other than those satisfying all of the following requirements:

- the plot ratio of the residential area is more than 1.0;
- the gross floor area of each unit is less than 140 m²; and
- the transaction price is less than 1.44 times of the average transaction price of residential properties on the same grade of land.

Sales made between three to five years of ownership

If the "non-regular" residential property has been retained for more than three years but less than five years, the owner will receive an exemption for half of the LAT.

Sales made after five years of ownership

Any sale by the individual sellers of "non-regular" residential properties retained for more than five years will not be subject to any LAT if the sale is made for one of the following reasons:

- the sellers are moving elsewhere; or
- the sellers are seeking to improve their living conditions.

Calculation of LAT

Generally, LAT imposed on the transfer of the "non-regular" residential properties will be calculated based on the difference between the sale price and the sum of deductible costs.



Calculation where no evidence of purchase price

When the individual sellers fail to provide evidence of the purchase price of the “non-regular” residential properties and no valuation price in respect thereof is available, a LAT equivalent to 0.5% of the sale price shall be paid on the transfer of the “non-regular” residential properties retained for less than three years, and 0.25% on the transfer of the “non-regular” residential properties retained for more than three years but less than five years.

Conclusion

Although the Notice aims to make residential properties more affordable and avoid a dangerous property bubble, it is said that LAT imposed on transfer of the “non-regular” residential properties will not have its desired effect because the additional costs from the tax will likely to be passed onto the buyer, limiting the impact of LAT on the property market.

If you would like information on this or any other area relating to laws in China, you may wish to contact the lawyer at WongPartnership that you normally deal with or contact the following partners from the China Practice:



JOSEPH HE

DID: +65 6416 8218

Email: joseph.he@wongpartnership.com.sg



GERRY GAN

DID: +86 21 6340 3131 ext 8808

Email: gerry.gan@wongpartnership.com.sg