What is decoupling or transfer of part-share in a property?

Property Gifts and Transfer of Partial Interests · https://help.law.com.sg/faq/what-is-decoupling-or-transfer-of-part-share-in-a-property/

What is transfer of part-share?

In this article, we are assuming that there are two owners of a residential property in Singapore, and one co-owner (transferor) wishes to transfer his part-share in the property to the other co-owner (transferee). To obtain a digital title of your property, please read this help article.

"Decoupling" is a transfer of a part-share in a residential property in Singapore that typically allows the transferor to acquire acquisition of additional residential properties without incurring Additional Buyer's Stamp Duty (ABSD) or to pay a lesser ABSD. Here are some FAQs concerning decoupling within the legal conveyancing framework in Singapore, taking into account Central Provident Fund (CPF) considerations, mortgage issues, and stamp duties.

1. **What is Decoupling?**
   - Decoupling entails the transfer of part-share of a property from one co-owner (transferor) to the other (transferee) either through (i) a sale or (ii) as a gift. This process facilitates the purchase of additional residential properties by eliminating or reducing the burden of ABSD for one of the co-owners.

2. **How does Decoupling aid in acquiring a second property?**
   - Upon decoupling, one co-owner becomes the sole owner of the existing property, freeing the other to purchase a new residential property without the financial constraint of ABSD, making the acquisition of additional properties more economical.

3. **What are the legal procedures for executing Decoupling?**

- The process involves drafting and finalizing a transfer document, settling any outstanding mortgage on the property, and registering the transfer with the Singapore Land Authority.
- If the transfer of the part-share is by way of gift, typically, a deed of gift and a transfer instrument will be prepared and be executed
- If the transfer of the part-share is by way of sale, typically, a sale and purchase agreement or an option to purchase and a transfer instrument will be prepared and be executed.

4. **How are CPF funds and mortgage issues handled during Decoupling?**
   - During decoupling, CPF funds used for the initial property purchase may need to be refunded back to the CPF accounts of the co-owners, but dependent if the transfer is by way of gift or sale. To check your CPF funds use, please access your account at CPF Board's website.
   - Furthermore, any existing mortgage on the property may need to be fully settled or refinanced, which could affect the transferee’s mortgage loan eligibility and amount. Note that if the decoupling is by way of a gift, the financial bank is unlikely to agree to finance the purchase price of the part-share.

5. **What stamp duties are applicable during Decoupling?**
   - Whether it is by way of gift or sale, the transferee of the part-share is liable to pay Buyer's Stamp Duty (BSD) and Additional Buyer's Stamp Duty (ABSD), if applicable, based on his citizenship and residential property count in Singapore. It is mandatory for the transferee to pay BSD based on either the purchase price (for purchase) or market value, whichever is the higher. The rates and details can be found on IRAS website: BSD and ABSD.
   - The transferor (donor) of the part-share may be liable to pay Seller's Stamp Duty (SSD), which is dependent on his holding period of his share in the property. The rates and details can be found on IRAS website: SSD

6. **What are the typical mode of decoupling?**
   - by way of gift, or
   - by way of sale

7. **How can a transfer of property share be executed as a gift?**
   - A part-share of the property can be transferred as a gift to the other co-owner or a third party, such as by executing a deed of gift and/or a transfer by way of gift. This transaction will incur

stamp duties for the transferee (donee), such as BSD and ABSD, and a valuation of the property share is required. The effects of gifting a property can be explored further here.

- If there is an existing mortgage, this must be discharged or redeemed and any outstanding loan must be paid.
- If there is an existing CPF Board's charge, this must be discharged and CPF funds plus accrued interests must be refunded.

8. **Can a transfer of property share be executed through a sale?**
   - Yes, a part-share can be sold by one co-owner (transferor) to the other co-owner (transferee) at fair market value, requiring a valuation of the property share. This transaction may also incur stamp duties such as BSD and ABSD by the purchaser. The buyer (transferee) will also need to pay the purchase price to the seller (transferor).
   - If there is an existing mortgage, this must be fully redeemed and any outstanding loan must be paid, and it is up to the transferee (purchaser) to decide if he wishes to refinance the existing loan and obtain fresh loan to finance the purchase price of the part-share. Please note that the financing bank will require evidence of payment of the cash difference between the purchase price and the loan amount, and two separate sets of lawyers (from different law practices) will be required for the transaction.
   - If there is an existing CPF Board's charge, the transferor (seller) will need to partially discharge the charge by refunding his CPF funds used plus accrued interests to CPF Board. The transferee (purchaser) may discharge fully discharge the charge by refund his CPF funds, or retain the CPF charge, and in that event, no CPF funds need to be refunded.

9. **How does decoupling impact couples, especially amidst a divorce?**
   - Decoupling could complicate asset division during a divorce. It’s imperative to have clear agreements and seek legal advice prior to proceeding with decoupling, especially for married couples.

The legal intricacies surrounding decoupling necessitate professional legal and tax advice to fully comprehend the impact on property ownership, financial scenario, and the associated legal and tax implications, including tax evasions.

Engaging Loh Eben Ong LLP

If you wish to use our conveyancing service for transfer of part-share (subject to our confirmation of engagement), you may do the following:

- get an estimated quote
- book an appointment

Caution: This article does not provide legal opinion, and reader should read with caution and not rely on the same. You should consult your lawyer if you have any specific legal issue.

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