

CAYMAN ISLANDS



Supplement No. 5 published with Gazette No. 25 dated,
15th December, 2003.

**THE STAMP DUTY LAW
(2003 REVISION)**

THE STAMP DUTY (NO.2) REGULATIONS, 2003

(Price \$2.40 Cents)

17

18

19

20

21

CAYMAN ISLANDS

**THE STAMP DUTY LAW
(2003 REVISION)**

THE STAMP DUTY (NO.2) REGULATIONS, 2003

The Governor in exercise of the power conferred by section 27 of the Stamp Duty Law (2003 Revision) makes the following regulations-

1. (1) These regulations may be cited as the Stamp Duty (No.2) Regulations, 2003. Citation commencement
and expiry

(2) Notwithstanding regulation 1(3) of the Stamp Duty Regulations 2003, these regulations-

- (a) shall come into operation upon the expiration of the said regulations; and
- (b) shall cease to have effect upon the expiration of a period of two months.

(3) Upon the expiration of these regulations the Law in force immediately prior to the coming into operation of the Stamp Duty (Amendment) (Temporary Provisions) Law, 2001 shall, so far as it is amended by regulation 2, again operate as though these regulations had not been made and the said amendments had not been enacted.

2. The Stamp Duty Law (2003 Revision) is amended in the Schedule as follows -

Amendment of the
Schedule to the Stamp
Duty Law (2003
Revision) - rates of duty

- (a) by repealing the head of duty AGREEMENT OR MEMORANDUM OF AGREEMENT and substituting the following head of duty -

“AGREEMENT OR MEMORANDUM OF AGREEMENT

(1) Agreement or memorandum of agreement for the purchase of any land or strata title (or interest in any land or strata title) -

- (a) under which no right to possession is

conferred or derived -

- (i) \$100; or
- (ii) 5% of the value of the consideration irrespective of the area in which the land or strata title or interest therein is situated,

at the option of the purchaser; and

- (b) under which a right to possession is conferred or derived, 5% of the value of the consideration irrespective of the area in which the land or strata title or interest therein is situated.

(2) Where duty of 5% is paid under paragraph (1) and, subsequent to the agreement or memorandum of agreement, a conveyance or transfer is executed which-

- (a) is in conformity with the agreement; or
- (b) relates to the same property as the agreement,

the duty which would otherwise be charged on the conveyance or transfer shall be extinguished.

(3) For the purposes of this head of duty, an agreement or memorandum of agreement for the sale or purchase of any land or strata title (or interest in any land or strata title) shall be deemed to confer, or permit the derivation of, a right of possession unless the agreement or memorandum of agreement expressly prevents such a right from being conferred or derived.

(4) For the purposes of this Law-

“possession” includes the collection of rents.

(5) Where an agreement or memorandum of agreement is under hand or where no other duty is specified under this head or any other head of charge \$2”;

- (b) by repealing the head of duty ASSIGNMENT and substituting the following head of duty –

Made in Cabinet the 18th day of November, 2003.

Carmena Watler

Clerk of the Cabinet

Laid in the Legislative Assembly the 28th day November, 2003 in accordance with section 27 of the Stamp Duty Law, (2003 Revision).

Wendy Lauer Ebanks

Clerk of the Legislative Assembly.

dollars in the case of-

- (a) a conveyance or transfer expressed to be for natural love and affection between a parent and a child or between spouses; or
- (b) a conveyance or transfer expressed to be for natural love and affection between children born of the same parent, or between a grandparent and a grandchild,

where it has been certified by the Commissioner to be a conveyance or transfer in respect of which he is satisfied that the provisions of this paragraph may properly apply.

(8) Where land (including a building) is transferred to a Caymanian for the purpose of his first owner occupied home and the consideration is \$150,000 or less or where land (without a building) is transferred to a Caymanian for the purpose of the construction of his first owner occupied home and the consideration for the land is \$35,000 or less, there is no charge to duty on the instrument effecting such transfer. In order for an instrument to be stamped in accordance with this paragraph it must be accompanied by an affidavit attested by a justice of the peace or any other person qualified to attest to documents in the Islands and stating that the land is transferred to a Caymanian for the purpose mentioned herein. In the adjudication of any instrument to which this paragraph relates the Financial Secretary may impose such other conditions as he considers reasonable to give effect to this paragraph.

For the purposes of this provision "Caymanian" means a person with Caymanian status within the meaning of the Immigration Law (2003 Revision).";

"ASSIGNMENT

(1) Assignment of any rights under an Agreement or Memorandum of Agreement relating to the purchase of any land or strata title (or an interest in any land or strata title) -

- (a) where there is no premium for the assignment and there is no right to possession conferred or derived under the assignment, 5% of the value of the consideration irrespective of the area in which the land or strata title or interest therein is situated or \$200 at the option of the assignee;
- (b) where there is a premium for the assignment and there is no right to possession conferred or derived under the assignment, 5% of the market value of the property or 5% of the value of the premium, irrespective of the area in which the land or strata title or interest therein is situated, at the option of the assignee; and
- (c) where there is a right to possession conferred or derived under the assignment, 5% of the market value of the property irrespective of the area in which the land or strata title or interest therein is situated.

(2) Where *ad valorem* duty is paid on the market value of the property or the value of the premium under paragraph (1) and a subsequent conveyance or transfer is executed which-

- (a) is in conformity with the assignment; or
- (b) relates to substantially the same property as the assignment,

the duty which would otherwise be charged on the subsequent conveyance or transfer shall be reduced or extinguished by the deduction therefrom of the duty paid on the assignment.

(3) For the purpose of this head of duty, an assignment of any land or strata title (or interest in any land

or strata title) shall be deemed to confer or permit the derivation of a right of possession unless the assignment expressly or effectually prevents such a right from being conferred or derived.

(4) Assignment of a debt, policy of life assurance or, subject to paragraph (5), any other thing in action where no duty is payable under any other head or charge except shares, interests in trust funds, interests in partnerships, warrants or options or other rights to acquire shares, interests in trust funds or in partnerships \$100

(5) Assignment of any rights under an agreement or memorandum of agreement for or in relation to the purchase of or an interest in any land, strata title or other immovable property where there is no consideration- \$200.”;

(c) by repealing the head of duty CONVEYANCE OR TRANSFER and substituting the following head of duty -

“CONVEYANCE OR TRANSFER of any immovable property-

(1) The charge to duty on conveyances or transfers of immovable property is 5% of the value of the consideration irrespective of the area in which the property is situated.

(2) For the purpose of this charge to duty the consideration shall be deemed to be the total monetary market value of the property of which the right of disposal is conveyed or transferred, irrespective of any mortgage, charge, lien or other encumbrance to which it is subject, or of the actual form the consideration may take, the period, if any, over which the consideration is payable, whether or not the property conveyed or transferred is contained in one or more parcels or lots and whether or not the property is conveyed or transferred by one or more instruments, provided that in the case of the use of more than one instrument in respect of any one or more of the same parcels one such instrument shall be declared to be the principal instrument and shall recite the value of the property as hereby defined and shall bear the whole of the *ad valorem* duty subject to this charge, but so that where the parties desire to convey or transfer different parcels by different instruments, the *ad valorem* duty charged may be apportioned among such instruments:

Provided that where the Commissioner is satisfied that there is a conveyance or transfer to or from a land holding corporation (as defined in the Land Holding Companies Share Transfer Tax Law (2003 Revision)) and the conveyance or transfer is, as the case may be, from or to a person or persons who in aggregate are the legal and beneficial owners of not less than forty-five per cent of the shares in the corporation then he may, in his absolute discretion, abate this charge to duty by such percentage, not being a percentage greater than such person’s or persons’ percentage holding in the corporation, as he shall think fit.

(3) For the purpose of this charge to duty the expression “conveyance or transfer” includes every instrument pursuant to which any land, strata title or interest therein is transferred to, acquired or enjoyed by another which shall include the right to occupy the same or enjoy the rents and profits thereof, and includes any grant, bargain, assignment, release, foreclosure or disclaimer howsoever described but shall not include any instrument conferring or vesting such rights in a receiver or any lease or licence or agreement for a lease or licence.

(4) An instrument whereby an interest in land or strata title is conveyed or transferred to any person in contemplation of a sale of that interest shall be treated for the purposes of this Law as a conveyance or transfer on sale of that land or strata title for a consideration equal to the value contemplated in respect of that sale.

(5) A power or letter of attorney with respect to any immovable property given for consideration, or declared to be irrevocable, is chargeable to duty as a conveyance on sale. The exercise of a power of appointment to any interest in immovable property if exercised otherwise than by will is chargeable to duty as a conveyance on sale.

(6) For the removal of doubt it is declared that a sale in exercise of the power of sale of a mortgagee of immovable property is chargeable as a conveyance on sale of the whole of the immovable property subject to the mortgage:

Provided that no duty shall be payable under this head where the immovable property is situated outside the Islands.

(7) There is a charge to duty in the sum of fifty