

CAYMAN ISLANDS



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LAND HOLDING COMPANIES SHARE TRANSFER TAX LAW

(2016 Revision)

Law 14 of 1976 consolidated with Laws 15 of 1978, 25 of 1978, 20 of 1983, 18 of 1991, 31 of 1993, 15 of 2001, 31 of 2001, 28 of 2002, 17 of 2006, 32 of 2006 and 10 of 2015.

Revised under the authority of the Law Revision Law (1999 Revision).

Originally enacted-

Law 14 of 1976 -7th September, 1976

Law 15 of 1978-15th June, 1978
Law 25 of 1978-28th November, 1978
Law 20 of 1983-21st June, 1983
Law 18 of 1991-11th September, 1991
Law 31 of 1993-29th November, 1993
Law 15 of 2001-25th May, 2001
Law 31 of 2001-14th November, 2001
Law 28 of 2002-5th December, 2002
Law 17 of 2006-9th June, 2006
Law 32 of 2006-10th November, 2006
Law 10 of 2015-19th June, 2015.

Consolidated and revised this 28th day of July, 2016.

Note (not forming part of the Law): This revision replaces the 2007 Revision which should now be discarded.

LAND HOLDING COMPANIES SHARE TRANSFER TAX LAW

(2016 Revision)

ARRANGEMENT OF SECTIONS

1. Short title
2. Definitions
3. Returns, etc., of transfers to be delivered and tax payable
4. Transfers between trustees, etc.
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9. Valuation disputes

Note: See note on p.10 regarding transitional provisions and validation.

LAND HOLDING COMPANIES SHARE TRANSFER TAX LAW

(2016 Revision)

1. This Law may be cited as the Land Holding Companies Share Transfer Tax Law (2016 Revision). Short title
2. In this Law- Definitions
 - “charitable corporation” means a corporation whose main objects are charitable and which has been certified as such by the Cabinet;
 - “corporation” includes a partnership, a foreign corporation, a chartered corporation, a mutual fund and a company incorporated under the Companies Law (2016 Revision) but does not include a corporation sole or a charitable corporation; 2016 Revision
 - “equity capital” with respect to a corporation includes all shares, stock and scrip whether registered, inscribed or bearer which, other than by way of a fixed and predetermined right to interest and repayment of subscribed capital at par, entitles the owner to any variable right of participation in the corporation’s profit, whether by way of dividend, bonus, conversion or distribution upon winding-up;
 - “immovable property” means immovable property in, on, under or over land in the Cayman Islands including all structures built into or adhering to such land, but does not include tenant’s fixtures, or removable fixtures or power plants installed for the purpose of trade, industry, agriculture or animal husbandry;
 - “land holding” means every legal or beneficial interest in landed property other than such interest held by a legal or equitable mortgagee or chargee by way of bona fide security for the payment of money or money’s worth;
 - “land holding corporation” means a corporation, other than a charitable corporation and such other corporations as the Cabinet may by notice published in the Gazette for the time being specify, which-
 - (a) is the legal or beneficial owner of any land holding; or
 - (b) is the legal or beneficial owner of any equity capital of a land holding corporation;
 - “landed property” means every legal or beneficial interest in, or claim to or over immovable property whether freehold or leasehold provided that in the case of leasehold property, the original lease was for a term exceeding thirty years;
 - “market value”, in relation to landed property, means the estimated amount for which the property should exchange on the date of valuation between a willing

	buyer and a willing seller in an arm's-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion;				
2015 Revision	"mutual fund" has the same meaning as given in section 2 of the Mutual Funds Law (2015 Revision);				
2013 Revision	"partnership" includes a limited partnership established pursuant to the Partnership Law (2013 Revision) and a general or limited partnership established pursuant to the laws of any other jurisdiction;				
	"share" includes an interest in a partnership, stock and all other subdivisions of equity capital;				
	"transfer" includes, in addition to a transfer of shares, every dealing or transaction. whether by the issue of shares, the placement of shares, the grant or take up of any rights, the exchange of shares, the conversion of shares, the grant or exercise of an option or other means howsoever whereby equity capital undergoes a change of beneficial ownership or proportion of ownership or a change occurs in the entitlement or potential entitlement of any person to a share in the distribution of a corporation's profit or capital.				
Returns, etc., of transfers to be delivered and tax payable	<p>3. (1) Within thirty-one days of any transfer of any equity capital of a land holding corporation such corporation shall deliver to the Minister charged with responsibility for Financial Services -</p> <p>(a) the instrument, if any, whereby such transfer is effected;</p> <p>(b) a return in the prescribed form containing the prescribed particulars relating to the corporation, its landed property, the transfer and connected matters; and</p> <p>(c) a sum for the benefit of the revenue-</p> <p>(i) equivalent to seven and one-half per cent of the consideration for or of the taxable value of the transfer whichever is greater in the case where fifty per cent or more of the market value of the landed property of the land holding corporation is situate in any of the following registration sections, blocks and parcels-</p> <table><tr><td>Registration Section</td><td>Block</td></tr><tr><td>(A) West Bay</td><td>5C, (parcels with water frontage only, but including any parcel subsequently derived from another parcel with water frontage existing at the 9th June, 1997) 5D, 10A, 10E, 11B, 11C, 11D, 12C (parcels with water frontage only, but including any parcel subsequently derived from another parcel with water</td></tr></table>	Registration Section	Block	(A) West Bay	5C, (parcels with water frontage only, but including any parcel subsequently derived from another parcel with water frontage existing at the 9th June, 1997) 5D, 10A, 10E, 11B, 11C, 11D, 12C (parcels with water frontage only, but including any parcel subsequently derived from another parcel with water
Registration Section	Block				
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frontage existing at the 1st July, 2006),
12D, 12E, 17A.

(B) George Town 13B, 13C, 13E, 13EH (parcels with
road frontage on West Bay Road,
Eastern Avenue and North Church
Street) 13D (parcels with road frontage
on Eastern Avenue) 14BG, 14BH,
14BJ, 14CJ, OPY, 18A; or

(ii) equivalent to-

(A) seven and one half per cent of the taxable value of such
transfer, if the transferee is a Caymanian; or

(B) seven and one half per cent of the taxable value of such
transfer, if the transferee is not a Caymanian,

in the case where fifty per cent or more of the market value of the
landed property of the landed corporation is situate in areas not
specified in subparagraph (i).

(2) For the purposes of subsection (1)(c)(ii), "Caymanian" has the meaning
ascribed to it in the Immigration Law (2015 Revision).

2015 Revision

(3) For the purposes of this section, the taxable value of a transfer shall be a
sum equivalent to the same proportion of the total market value of all the landed
property of the relevant corporation at the time of the transfer as the nominal value
of the share, or shares, to which the transfer relates bears to the nominal value of
the whole of the issued equity capital of the corporation.

(4) Where the Minister charged with responsibility for Financial Services is
satisfied that there is a transfer of land holding to or from a land holding
corporation and the 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 land holding corporation, then he may, in his absolute
discretion, abate the sum due and payable under the provisions of subsection (1)(c)
by such percentage, not being a percentage greater than the aforementioned person
or persons percentage holding in the said company, as he shall think fit.

4. (1) Section 3 does not apply to-

- (a) a transfer effected as a result of a distribution of property by
personal representatives acting in that capacity;
- (b) a transfer effected as a result of the distribution of the estate of a
bankrupt;
- (c) a transfer between trustees or nominees which effects no change in
beneficial ownership; or
- (d) a transfer for natural love and affection-
 - (i) between parents and children or between spouses; or

Transfers between
trustees, etc.

- (ii) between children born of the same parent, or between grandparents and grandchildren, where the transfer has been certified by the Minister charged with responsibility for Financial Services to be a transfer in respect of which he is satisfied that the provisions of this section may properly apply.

(2) Section 3 does not apply to a transfer effected as a result of the order of a court, unless the court otherwise directs.

(3) To the extent specified in the approval, section 3 does not apply to a landholding company approved by the Minister charged with responsibility for Financial Services under section 5.

Approved land holding
corporations

5. (1) Subject to this section, the Minister charged with responsibility for Financial Services, on application made by a land holding corporation, may approve the land holding corporation for the purposes of section 4(3).

(2) Approval under subsection (1) shall be in writing and shall be subject to such conditions (if any) as the Minister charged with responsibility for Financial Services sees fit.

(3) The Minister charged with responsibility for Financial Services shall not approve a land holding corporation under subsection (1) unless he is satisfied that the corporation is in compliance with the following conditions, namely-

- (a) that in the case of a land holding corporation which is a mutual fund -
 - (i) the mutual fund is licensed under the Mutual Funds Law (2015 Revision);
 - (ii) the mutual fund is listed on the Cayman Islands Stock Exchange;
 - (iii) the mutual fund invests exclusively in immovable property in the Islands; and
 - (iv) there are no public interest reasons why the approval should not be granted; and
- (b) that in the case of any other land holding corporation –
 - (i) land holding is incidental to the main business of the corporation;
 - (ii) the corporation is listed on a stock exchange approved by the Minister charged with responsibility for Financial Services; and
 - (iii) there are no public interest reasons why the approval should not be granted.

2015 Revision

(4) A land holding corporation in respect of which approval has been granted under this section shall, on the anniversary date of the initial grant, submit

to the Minister charged with responsibility for Financial Services an annual declaration that the corporation is in compliance with the conditions of the approval.

(5) An annual declaration made by a land holding corporation under subsection (4) shall be signed by two directors of the corporation and shall be accompanied by the annual fee prescribed in the Schedule.

(6) The names of land holding corporations approved under this section shall be published in the Gazette.

(7) If the Minister charged with responsibility for Financial Services is of the opinion that a land holding corporation approved under this section has failed -

- (a) to comply with a condition of the approval under subsection (2) or (3);
- (b) to submit an annual declaration under subsection (4); or
- (c) to submit the annual fee prescribed in the Schedule,

the Minister charged with responsibility for Financial Services may revoke the approval.

(8) The Cabinet may, by order, amend the Schedule.

6. The Cabinet may make regulations prescribing forms and procedures to be used in compliance with this Law.

Regulations

7. (1) A person who being a director, manager or secretary of a land holding corporation, fails to comply with section 3 commits an offence and is liable on summary conviction to a fine of one thousand dollars and to imprisonment for six months; and every land holding corporation in respect of which default under section 3 is made commits an offence and is liable on summary conviction to a fine of one thousand dollars or three times the duty otherwise payable under this Law whichever is the greater.

Offence of neglecting to make return, etc.

(2) In addition to any liability to a penalty under subsection (1), where any sum required to be paid under section 3 is not fully paid by the due date, the corporation concerned shall be liable to pay interest at the rate of ten per centum per annum for the first month or part of a month and thereafter at the rate of twenty per cent per annum upon the amount for the time being remaining unpaid.

(3) Subsection (2) shall apply to any sum that was due under section 3 to be paid by a date earlier than the 1st July, 2006 as though the due date for its payment were the 1st July, 2006.

8. A person who makes any return under section 3 or any statement relevant to the liability of any person or corporation thereunder containing matter in the truth of which he does not believe (proof of his belief being upon him) commits an

Offence of making false statements, etc.

	offence and is liable on summary conviction to a fine of one thousand dollars and to imprisonment for six months.
Valuation disputes	9. Should any dispute arise as to the market value of any property for the purpose of compliance with section 3 it shall be settled in the same manner as a stamp duty adjudication under the Stamp Duty Law (2013 Revision) with the same right of appeal from decisions of the Minister charged with responsibility for Financial Services in his capacity of adjudicator.
2013 Revision	

SCHEDULE

FEE

Fee to accompany an annual declaration under section 5(5)	\$5,000.00
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Note: For transitional provisions and validation affecting the 2003 Revision of the Law, as amended by the Land Holding Companies Share Transfer Tax (Amendment) Law, 2006 (Law 17 of 2006) please see sections 7 and 8 of that latter Law.

Publication in consolidated and revised form authorised by the Cabinet this 30th day of August, 2016.

Kim Bullings
Clerk of Cabinet

(Price \$ 2.40)