

Notes:

Act 1981-18, Cap. 109A has not been proclaimed.

Act 1987-13 came into operation on 1st June, 1987.

Guide to symbols in historical notes:

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument

CHAPTER 84A

**PROPERTY TRANSFER TAX
1969-50**

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**BARBADOS****PROPERTY TRANSFER TAX
1969-50**

An Act to provide for the imposition of a tax on the disposal of land and company shares and for related matters.

[Commencement: 1st July, 1969]

**PART I
PRELIMINARY****Short title**

1. This Act may be cited as the *Property Transfer Tax Act*.

Interpretation

- 2.(1) For the purposes of this Act,

“Commissioner” means the Commissioner of Land Tax under the *Land Valuation Act*, Cap. 229A;

“company” means any body corporate, whether incorporated in Barbados or elsewhere;

“conveyance” includes a transfer;

[1998-12]

“dependant”, in relation to another person, means

- (a) the wife of such person unless she is living apart from him under a deed of separation or the decree of a court;
- (b) a child under the age of 16 years of such person;
[1979-32]
- (c) any other relative of such person who is wholly dependent on such person for his subsistence;

“dwelling-house” means a building in which people live or which is capable of being used for human habitation, but does not include a shed used for agricultural or other purposes;

[1996-25]

“firm” means an unincorporated body of 2 or more individuals, or one or more individuals and one or more bodies corporate, who have entered into a partnership with one another for the purpose of carrying on business in common for profit;

“matrimonial property” means, in relation to a party to a marriage or union other than a marriage,

- (a) land (including an estate, right, title or interest in, to or over land, and including a lease) to which either both parties are, or one of the parties is, entitled in possession or reversion;
- (b) shares issued to a party by or on behalf of a company;

[1996-25]

“property” means land (including an estate, right, title or interest in, to or over land, and including a lease or an option to purchase land) and shares issued by or on behalf of a company;

[1996-26]

“Registrar” means the Registrar of the Supreme Court or the Registrar of Titles,
as the case requires;

[1988-12]

“shares” includes debentures;

“tax” means the property transfer tax chargeable under this Act;

“transfer of property” means any transfer, whether by sale, exchange, gift or other disposition *inter vivos*, whereby any property or any estate or interest in any property is legally or equitably transferred to or vested in a purchaser or any other person on his behalf or by his direction.

(2) [Repealed by 1999-26.]

(3) [Repealed by 1999-26.]

(4) For the purposes of this Act, the compulsory acquisition of any land by the Crown under the *Land Acquisition Act*, Cap. 228 shall be deemed to be a transfer of property to the Crown, and the compensation assessed on the basis of the value of the land and paid under that Act in respect of such compulsory acquisition shall be deemed to be the amount of the consideration for such transfer.

[Section 2(4) effective from 17th October, 1972.]

[1972-29]

Administration

3.(1) The administration of this Act is vested in the Registrar, but the Minister responsible for Finance may by notice published in the *Official Gazette* direct that the administration of this Act shall be vested in such other public officer, and from such date, as may be specified in the notice; and from that date all references in this Act to the Registrar shall be construed as references to that other public officer.

(2) Notwithstanding subsection (1), the administration of this Act with respect to the transfer of securities of public companies shall be vested in the Securities

Commission, and all references to the “Registrar” shall be construed as references to the “Securities Commission” for the purposes of such securities.

[1987-13; 2004-9]

(3) Notwithstanding anything in this Act to the contrary, the securities of a public company that are listed and transferred locally or within the Caribbean Community through the Securities Commission in accordance with the rules of the Barbados Stock Exchange are exempt from property transfer tax.

[2004-9]

(4) For the purposes of this section,

“Caribbean Community” has the meaning assigned to it by the Revised Treaty of Chaguaramus establishing the Caribbean Community, including the CARICOM Single Market and Economy, signed in the Bahamas on the 5th day of July 2001;

[2004-9]

“public company” has the meaning assigned to it by section 2 of the *Securities Act*, Cap. 318A;

“Securities Commission” means the Securities Commission established by section 3 of the *Securities Act*.

PART II

IMPOSITION, EXTENT AND PAYMENT OF TAX

Charge to property transfer tax

4.(1) Subject to and in accordance with this Act, there shall be charged, in respect of every transfer of property which takes effect on or after the 1st July, 1969, a tax to be called the property transfer tax.

(2) For the purposes of this Act, a transfer of property shall be deemed to take effect,

(a) in the case of a transfer by an instrument subject to stamp duty under the *Stamp Duty Act*, Cap. 91, on the date on which such instrument is

presented to the Registrar pursuant to section 9 or subsection (3) of section 22 of that Act, or on the date on which the instrument is executed in the case of an instrument not required to be presented to the Registrar in accordance with subsection (4) of the said section 22; and
[1972-29]

- (b) in any other case, on the date on which the instrument relating to the transfer is executed.

Rate of tax

5.(1) The rate of tax payable under this Act in respect of a transfer of property is,

- (a) where the property transferred consists of shares, 2.5 per cent of the amount by which the value or amount of the consideration for the sale or other disposition of the property exceeds \$50 000;*

**[2007-23 amendments effective 1st April, 2007.]*
[2004-22; 2007-23]

- (b) where the property consists of land on which a dwelling-house or other building has been erected, 2.5 per cent of the amount by which the value or amount of the consideration exceeds \$125 000; and*

**[2007-23 amendments effective 1st April, 2007.]*
[2004-22; 2007-23]

- (c) where the property consists of land on which no dwelling-house or other building has been erected, 2.5 per cent of the value of the consideration for the sale or other disposition of the property.*

**[2007-23 amendments effective 1st April, 2007.]*
[2004-22; 2007-23]

(2) For the purposes of subsection (1), where there has been a number of transactions between the same or connected persons relating to the transfer of shares and the aggregate amount or value of the consideration for all shares transferred in those transactions exceeds \$50 000, then, if the transactions have taken place over a period of not more than 2 years and relate to shares issued by

or on behalf of the same company, tax is payable as if all those transactions together constituted one transaction.

[1972-29; 1977-34; 1999-7]

[1999-26]

Option to purchase

5A.(1) Where, on any transfer of property by way of sale, the property transferred was subject to an option to purchase that was exercised by the purchaser, the tax payable in respect of the transfer shall be calculated on the consideration for the sale together with the consideration given for the grant of the option.

(2) The Registrar may, for the purposes of determining the value of the option to purchase referred to in subsection (1), cause the value to be determined in the manner specified in section 9.

[1999-26]

Tax payable on certain leases

5B. Where property is transferred by way of lease as part of a sale-leaseback transaction, the tax payable in respect of the lease transaction of such property shall be computed on half of the amount of the capitalised value of the consideration specified in section 5(1).

[2002-1]

No tax payable on leases less than 25 years

5C.(1) Notwithstanding sections 4 and 5B and subject to subsection (2), no tax shall be payable in respect of a transfer of property by way of lease for a term that is less than 25 years.

(2) Where property is transferred by way of a lease that is renewed after the commencement of this Act for a term which, when added to any former term, is

of 25 years or more, tax is payable under section 5 in respect of the renewed term.

(3) Where a lease has not been renewed on the expiry of its term, but a new lease is granted after the commencement of this Act in respect of the same property and between the same or connected persons for a term which, when added to the former term, is of 25 years or more, tax is payable under section 5 in respect of the term of the new lease.

(4) Subsections (2) and (3) apply notwithstanding that a period of up to 2 years has elapsed between the expiration of the term of a lease and the time when

- (a) the lease referred to in subsection (2) is renewed; or
- (b) the new lease referred to in subsection (3) is granted.

(5) A transfer of property by way of a lease shall not be treated by the Registrar as exempt from the tax payable under subsection (1) unless a certificate of the transferor that the lease is not one in respect of which subsection (2) or (3) applies is contained in the lease or in a supplementary declaration relating to the lease.

(6) Notwithstanding any other law to the contrary, all leases that are required by section 149 of the *Property Act*, Cap. 236 to be in writing and have been entered into after the commencement of this Act, shall, unless required to be registered under the *Land Registration Act*, Cap. 229, be recorded with the Registrar within 3 months of the execution thereof, and shall be of no effect in law unless recorded in accordance with this section.

[2004-22]

Exemptions from tax

6.(1) Subject to this section, there are exempt from the tax payable under this Act

- (a) any transfer of property by way of
 - (i) mortgage; or

- (ii) release or reconveyance of property from a mortgage, where the mortgage is security for the payment of a sum of money advanced or lent for; or
- (iii) the purchase of that property; or
- (iv) the erection, extension or repair of a dwelling-house or other building on that property; or
- (v) the carrying on by the transferor of any trade, manufacture, profession, vocation, undertaking or any other kind of business;
- (b) any transfer of property effected by operation of law to a liquidator or trustee in bankruptcy;
- (c) any transfer of property from one trustee to another on a change of trust;
[1998-31]
- (d) any transfer of property consisting of shares issued by or on behalf of a qualifying insurance company that satisfies the following conditions:
 - (i) the company was a qualifying insurance company for at least 3 consecutive fiscal periods immediately before the transfer or was such a company throughout the period of its registration under the *Insurance Act*, Cap. 310, whichever is the lesser period; and
 - (ii) where the transfer involves shares that are more than 10 per cent of the shareholding of the company, the prior written approval of the Minister has been sought and granted, unless the transfer is being made to
 - (A) another qualifying insurance company; or
 - (B) a licensee, a management or holding company within the meaning of the *Exempt Insurance Act*, Cap. 308A; and

[1998-31]

- (e) notwithstanding paragraph (d), any transfer of property consisting of shares issued by or on behalf of a qualifying insurance company traded on a recognised securities exchange.

For the purposes of paragraphs (d) and (e), “qualifying insurance company” has the meaning assigned to it by section 2(1) of the *Insurance Act*, Cap. 310.

(1A) Subject to subsection (1A.3), there is exempt from the tax payable under section 5(1) any transfer of property consisting of

- (a) shares; or
(b) any land on which a dwelling-house or other building has been erected

which does not form part of a larger transaction or series of transactions between the same or connected persons, where the amount or value of the consideration

- (i) in respect of the shares, does not exceed \$50 000; and
(ii) in respect of the land, does not exceed \$150 000.

[1999-26; 2007-23]

[2007-23 amendments effective 1st April, 2008.]

[1999-7]

(1A.1) Where the value or amount of consideration, in respect of

- (a) the shares referred to in subsection (1A), exceeds \$50 000, tax is payable on the amount by which the value or the amount of the consideration exceeds \$50 000; and
(b) the land referred to in subsection (1A), exceeds \$150 000, tax is payable on the amount by which the value or the amount of the consideration exceeds \$150 000.

[1999-26; 2007-23]

[2007-23 amendments effective 1st April, 2008.]

[1999-7]

(1A.2) Notwithstanding subsection (1A.1), there is exempt from the tax payable under section 5, a transfer of property consisting of shares the value or the amount

of the consideration of which exceeds \$50 000 where there is no change in the beneficial ownership of those shares.

[1999-7]

(1A.3) Where there is a change in the beneficial ownership of the shares referred to in subsection (1A.2) before a period of 5 years from the date of the transfer has elapsed, the transfer of shares referred to in that subsection shall be liable to property transfer tax.

[1999-7]

(1B) The following are exempt from the tax payable under section 5(1):

- (a) any transfer of property by way of testamentary disposition or on or pursuant to an intestacy, including a transfer by a trustee to the beneficiary of a trust created by a testamentary disposition or on or pursuant to an intestacy;
- (b) any transfer of property by way of sale in lieu of foreclosure under Order 31 of the *Rules of the Supreme Court, 1982* where the person to whom the property is transferred satisfies the court that
 - (i) he has been beneficially entitled to the property for a period of not less than 10 years immediately before the commencement of such proceedings; or
 - (ii) he has been beneficially entitled to the property under a will or intestacy immediately before the commencement of such proceedings; or
 - (iii) his documents of title to the property are lost or destroyed and the tax payable under this Act in respect of the transfer to which the documents relate has been duly paid;
- (c) any transfer of property by the Crown or by a statutory board which is in receipt of public funds;
- (d) any transfer of property by a benevolent organisation registered under the *Income Tax Act, Cap. 73*;

[1982/51]

- (e) any transfer of matrimonial property made pursuant to an order of the High Court by virtue of section 57(1) of the *Family Law Act*, Cap. 214.
[1996-25]

[1999-26]

(1C) There are exempt from the tax payable under section 5

- (a) any transfer of property in trust solely for the transferor; and
(b) any transfer by a trustee to the beneficiary of the trust where the beneficiary was the settlor of the trust.

[1996-26]

(2) Without prejudice to subsection (1), the Minister responsible for Finance may, on an application made by or on behalf of a person by whom tax is payable or paid, remit or refund the whole or any part of that tax if he considers it equitable so to do having regard to all the circumstances of the case.

[Section 6(2) to (5) effective from 17th October, 1972.]

[1979-29]

(3) A transfer of property shall not be treated by the Registrar as exempt under paragraph (a) of subsection (1) from the tax payable under this Act unless a statement certifying that the transaction does not form part of a larger transaction or of a series of transactions between the same or connected persons is contained in the instrument by which the transaction is effected or in a supplementary declaration relating to the transaction.

[1979-29]

(4) For the purposes of section 5 and this section

- (a) a person is connected with an individual if that person is the individual's husband or wife, or is a relative, or the husband or wife of a relative of the individual or of the individual's husband or wife;
(b) except in relation to acquisitions or disposals of partnership assets pursuant to *bona fide* commercial arrangements, a person is connected with any person with whom he is in partnership and with the husband or wife or a relative of any individual with whom he is in partnership;

- (c) a company is connected with another company
 - (i) if the same person has control of both or a person has control of one and persons connected with him, or he and persons connected with him, have control of the other; or
 - (ii) if a group of 2 or more persons has control of each company and the groups either consist of the same persons or could be regarded as consisting of the same persons by treating (in one or more cases) a member of either group as replaced by a person with whom he is connected;
- (d) a company is connected with another person if that person has control of it or if that person and persons connected with him together have control of it;
- (e) any 2 or more persons acting together to secure or exercise control of a company shall be treated in relation to that company as connected with one another and with any person acting on the directions of any of them to secure or exercise control of the company.

[1979-29]

(5) In subsection (4), the expression “relative” means a person who is related by blood to another person, and for the purposes of this definition a legally adopted child shall be deemed to be related by blood to its adopted parent and to every person to whom the adopted parent is related by blood.

[1979-29]

[1970-14; 1972-29; 1977-34]

Payment of tax

7.(1) All amounts due as tax under this Act shall, subject to the provisions of this section, be paid to the Registrar by or on behalf of the transferor, in the case of any tax payable pursuant to subsection (1) of section 5.

(2) Where pursuant to any rules of court or to an order of the High Court there is a transfer by the Registrar of any property, being a transfer which is chargeable

with tax under this Act, the Registrar shall deduct from the proceeds of the sale or other disposition of such property any amount payable as tax under this Act.

(2A) Where any land is compulsorily acquired by the Crown under the *Land Acquisition Act*, Cap. 228, the person responsible for paying to the person entitled under that Act to compensation for the compulsory acquisition of the land shall, before paying over such compensation, deduct therefrom and pay to the Registrar any amount payable under this Act as property transfer tax in respect of the transfer of such land to the Crown.

[1972-29]

(3) Every document or instrument relating to the transfer of any property in respect of which tax is payable shall, on payment of the tax, be stamped by the Registrar either

- (a) with a stamp denoting that the amount of tax due in respect thereof has been paid; or
- (b) with a stamp denoting that all particulars have been delivered to the Registrar which, in the opinion of the Registrar, are necessary for the purpose of enabling him to determine the amount of tax payable, and that security has been given for the payment of the tax in any case where the Registrar requires such security to be given; or
- (c) with a stamp denoting that no tax is payable in respect thereof,

and unless so stamped shall not, for the purposes of the *Stamp Duty Act*, Cap. 91 be deemed to be duly stamped notwithstanding anything contained in that Act.

(4) Where any instrument relating to the transfer of any property is stamped by the Registrar pursuant to paragraph (c) of subsection (3), such stamp shall, from the date thereof, be conclusive evidence in favour of any person to whom such property, or any estate or interest therein, is subsequently transferred, that

no tax was payable in respect of the transfer to which the Registrar's stamp relates.

[1970-14]

[1999-26]

Time at which tax is to be paid

8.(1) All amounts due as tax under this Act shall be paid to the Registrar,

- (a) in any case where the document or instrument relating to the transfer of the property is subject to duty under the *Stamp Duty Act*, Cap. 91, before such duty is paid and not later than 30 days after the completion of the transaction relating to the transfer of the property;
- (b) in any other case, not later than 30 days after the completion of the transaction relating to the transfer of the property.

(2) Subject to this Act, where from 27th August, 2001 the document or instrument relating to the transfer of shares is not presented for payment under subsection (1) within the period specified in that subsection, the transfer is void.

[2001-30]

(3) The court, on application to it by the transferor, transferee or an interested party, may extend the time for the presentation of the transfer to the Registrar.

(4) Where the court grants an extension of time under subsection (3), there shall be payable, in addition to any tax that may be due and payable on the transfer,

- (a) a penalty of \$10 or an amount equal to 10% of the tax payable, whichever is greater; or
- (b) where no tax is due and payable, a penalty of \$10.

[2001-30]

PART III

DETERMINATION OF VALUE OF TRANSFERRED PROPERTY AND
OBJECTIONS AND APPEALS AGAINST DETERMINATION**Registrar to cause value of transferred property to be determined in certain cases**

- 9.(1) Subject to subsection (1A), where on the transfer of any property
- (a) there is no money consideration for such transfer; or
 - (b) the Registrar is not satisfied that the consideration for the transfer represents the fair market value of the property,

the Registrar shall for the purposes of the tax payable under section 5 cause the fair market value of

- (c) property other than shares to be determined by the Commissioner of Valuations; and
- (d) property consisting of shares to be determined by the Commissioner of Valuations after consultation with the Commissioner of Inland Revenue;
[1978-11]

and the tax payable under section 5 shall, subject to this Part, be paid on the value of any such property as determined in accordance with this Part.

(1A) Notwithstanding subsection (1), where there is a transfer of property by way of lease, the Registrar shall for the purposes of the tax payable under section 5 or 5B cause the amount of consideration on which the tax is payable in respect of such transfer to be determined by the Commissioner of Valuations.

[1978-11; 2004-22]

(1B) For the purposes of subsection (1A), “lease” includes an underlease, sublease, tenancy or licence and any agreement for a lease, underlease, sublease, tenancy or licence.

(2) Written notice of the Commissioner's determination under subsection (1) of the fair market value of any property transferred shall be given to the Registrar and to the person or persons by whom the tax is payable under section 5.

(3) Any notice which under this Part is required to be given to or served on any person by the Commissioner may be given or served

- (a) in accordance with section 25(2) of the *Interpretation Act*, Cap. 1; or
- (b) by sending it in a prepaid registered letter addressed to such person at any address for service furnished by him to the Commissioner for the purposes of this Act,

and where any such notice is served by post in accordance with paragraph (b) of this section or paragraph (b) of section 25(2) of the *Interpretation Act*, Cap. 1, such notice shall be deemed to have been given or served at the time when it would have been received in the ordinary course of post.

[1972-29]

[1977-34]

Power of Registrar on discovery of non-payment of tax or payment of insufficient tax

9A.(1) Notwithstanding section 7(3) and (4), if the Registrar discovers or it is drawn to his attention that the tax chargeable under section 5 on the transfer of property

- (a) has not been paid; or
- (b) has been paid on a consideration which is less than the fair market value of or the actual price paid for the property in any case where the fair market value has not previously been determined by the Commissioner,

the Registrar may within 4 years after the date of the transfer cause the fair market value of the property to be determined by the Commissioner who shall forthwith

give written notice of his determination to the Registrar and to every person by whom tax is payable in respect of the transfer.

(2) Where the fair market value of property transferred is determined by the Commissioner under subsection (1), the tax chargeable under section 5 shall, subject to sections 10 to 12, be paid, within 30 days of the service of notice of the determination, on the value of the property so determined, less any sum previously paid to the Registrar.

[1972-29]

[1972-29]

Objections to Commissioner's valuation

10.(1) Any person who is dissatisfied with a determination by the Commissioner under section 9 or 9A of the fair market value of any property transferred may, within 14 days of the giving or service of notice of that determination, post to or lodge with the Commissioner an objection in writing against the determination, stating the grounds upon which he relies and the reasons therefor.

(2) The Commissioner shall with all reasonable despatch consider every objection made under subsection (1) and may disallow it a or allow it either wholly or in part.

(3) Written notice of the Commissioner's decision shall be served on the objector.

[1972-29]

Appeal against decision of Commissioner

11.(1) Any person who is dissatisfied with the decision of the Commissioner on any objection may, within 14 days of the service of notice of that decision, in writing request the Commissioner to refer the decision for review by the Land Valuation Board established by the *Land Valuation Act*, Cap. 229A.

(2) An appeal shall be limited to the grounds stated in the objection, but the Board may in its discretion permit any ground of appeal to be amended.

(3) Where the Commissioner has been requested to refer a decision to the Land Valuation Board he shall refer the decision accordingly with all reasonable despatch.

(4) On the review of any decision referred to it under this section, the Land Valuation Board may confirm, increase or reduce the amount determined by the Commissioner under section 9 or 9A as the fair market value of the property transferred.

[1972-29]

(5) Written notice of the Board's decision together with a written statement of the reasons therefor shall be served on the appellant and on the Commissioner.

(6) Subject to the provisions of this section, the provisions of the *Land Valuation Act* relating to the powers, rights, privileges and procedure of the Land Valuation Board shall apply for the purposes of the exercise by that Board of its functions under this Act.

Appeal against decision of Land Valuation Board

12.(1) The Commissioner, or any person who, pursuant to section 11, has requested the Commissioner to refer a decision to the Land Valuation Board for review and is dissatisfied in any respect with the decision of that Board, may appeal from the decision of the Board to the High Court within 30 days after the date on which notice of the decision of the Board was served on him.

(2) Subsections (3) to (9) of section 21 of the *Land Valuation Act*, Cap. 229A shall, *mutatis mutandis*, apply to appeals under this section.

(3) The decision of the High Court on an appeal under this section shall be final.

PART IV
MISCELLANEOUS

Declaration of commission paid

12A.(1) Where on the transfer of property by way of sale, a registered real estate agent, auctioneer or any other person acting for the transferor or transferee in the sale has been paid a commission by the transferor or transferee, the person paying the commission shall notify the Commissioner of Inland Revenue in the approved form of the amount of commission so paid in respect of that transfer.

(2) Where no commission has been so paid, the transferor and transferee shall by way of a declaration in the approved form notify the Commissioner of Inland Revenue to that effect.

(3) Notification by the transferor and the transferee to the Commissioner of Inland Revenue under this section shall be given not later than 14 days after the execution of the instrument relating to the transfer of the property.

(4) On the receipt of the notification, the Commissioner of Inland Revenue shall issue a certificate for presentation to the Registrar stating that the requirements of this section have been complied with.

[1983-24]

No registration etc. of instrument of transfer unless requirements are satisfied

13.(1) Subject to subsection (3), the Registrar shall not

- (a) register, record, or file; or
- (b) stamp as duly stamped or as not chargeable with a duty under the *Stamp Duty Act*, Cap. 91

any instrument or document relating to the transfer of property unless

- (i) the tax due under this Act in respect of that transfer has been paid or security for the payment thereof has been given and the instrument or document has been stamped in accordance with paragraph (a), (b) or (c) of subsection (3) of section 7;
- (ii) there is presented to him a certificate issued by the Commissioner of Inland Revenue stating that the requirements of section 12A have been complied with;
- (iii) subject to subsections (2) and (3) and in respect of a transfer where the transferor is a person to whom section 48(3) of the *Value Added Tax Act*, Cap. 87 applies, there is presented to the Registrar a certificate issued by the Comptroller of Customs stating that
 - (A) no input tax has been previously allowed under section 46(2) of the *Value Added Tax Act*, Cap. 87; or
 - (B) input tax previously allowed under section 46(2) of the *Value Added Tax Act* has been repaid to the Comptroller in accordance with section 48(4) of the *Value Added Tax Act*, or security satisfactory to the Comptroller has been given for the payment thereof.

(2) For the purposes of sub-paragraph (iii)(B) of subsection (1), a transferor of property shall declare in the document or instrument of transfer whether input tax has or has not been previously allowed under section 46(2) or 48(3) of the *Value Added Tax Act*.

(3) Where the declaration referred to in subsection (2) states that no input tax has been allowed, a certificate of the Comptroller referred to in sub-paragraph (iii) of subsection (1) is not required to be presented to the Registrar in accordance with that sub-paragraph.

[2004-22]

Unpaid input tax to be a charge on land for the purposes of this section

13A.(1) For the purposes of this Act, where input tax previously allowed under section 46(2) of the *Value Added Tax Act* becomes due under paragraph (b) of section 48(3) of that Act, the input tax shall, until paid, be a first charge on the land on which the building in respect of which the input tax is due and payable is erected and which is the subject of the transfer.

(2) The stamp of the Registrar on a document or instrument of transfer denoting the issue by the Comptroller of Customs of a certificate under subparagraph (iii)(B) of section 13(1) shall operate to release the land from the charge under subsection (1).

[2004-22]

Duty of companies in relation to transfer of shares

14.(1) No transfer of shares which is chargeable with tax under this Act shall be registered for the purposes of the *Companies Act*, Cap. 308 unless there is first produced to the directors, secretary or other authorised officer or agent of the company by or on behalf of which the shares were issued a receipt for the payment of any such tax or a certificate issued by or on behalf of the Registrar stating that such transfer is exempt from tax.

[1982-54]

(2) Every company shall furnish the Registrar with such particulars of any instrument of transfer of any shares in the company as the Registrar may require for the purposes of this Act.

(3) Where any company contravenes any of the provisions of subsection (1) or (2), every director, manager, agent and officer of the company in Barbados who is knowingly a party to the contravention is guilty of an offence and is liable on summary conviction thereof to a fine of \$10 000 or to imprisonment for 12 months or to both such fine and imprisonment.

Duties of transferor of property and of attorneys-at-law, trustees, agents, etc.

15.(1) Where any property is transferred, either

- (a) the instrument effecting the transfer shall contain a certificate as to whether or not the consideration for the transfer of the property represents the fair market value of the property; or
- (b) the transferor shall make and forward or cause to be made and forwarded to the Registrar a declaration certifying whether or not the consideration for the transfer represents the fair market value of the property.

(1A) Where pursuant to paragraph (a) or (b) of subsection (1) it is certified that the consideration for the transfer of the property does not represent the fair market value of the property, then, either the instrument effecting the transfer or the declaration required by paragraph (b) of subsection (1) shall contain an estimate of the fair market value of the property.

[1972-29]

(2) For the purposes of subsection (1), the expression “transferor” includes any person who is acting as an attorney-at-law or other authorised agent of the owner or person entitled to dispose of any property in any transaction relating to the transfer of that property.

(3) *[Repealed by 1999-26.]*

(4) The transferor of any property or his attorney-at-law or authorised agent shall furnish the Registrar with such particulars as the Registrar for the purposes of this Act may require of any instrument or document relating to the transfer of any property which is submitted to the Registrar to be registered, lodged, filed, recorded or to be adjudicated for duty under the *Stamp Duty Act*, Cap. 91.

(5) Any person who contravenes any of the provisions of this section is guilty of an offence and is liable on summary conviction thereof to a fine of \$1 000 or to imprisonment for 3 months.

(6) For the purposes of this section, “attorney-at-law” has the same meaning as in section 2 of the *Legal Profession Act*, Cap. 370A.

[1977-34]

[1972-29]

Tax to be first charge on land

16.(1) Any tax due under this Act shall, until paid, be a first charge on the land in respect of the transfer of which such tax is due and payable.

(2) Where pursuant to paragraph (a) of subsection (3) of section 7 any document or instrument relating to the transfer of any property is stamped by the Registrar with a stamp denoting that the amount of the tax due in respect thereof has been paid, that stamp shall, as from the date thereof, operate to release the property from the charge under subsection (1).

(3) Notwithstanding subsection (2), subsection (1) applies to tax or additional tax due as the result of the determination under section 9A of the fair market value of any property transferred.

[1972-29]

Recovery of unpaid tax

17. Without prejudice to the charge created by section 13A (1) or section 16, all amounts payable as tax under this Act are debts due to the Crown and are recoverable as such in civil proceedings in the High Court or in the magistrate’s court for District ‘A’, at the option of the Crown, notwithstanding that the amount involved exceeds the normal monetary limit on the jurisdiction of a magistrate.

[2004-22]

General penalty

18.(1) Any person who

- (a) in any statement issued for the purposes of
 - (i) paragraph (a) of subsection(1) of section 6;
 - (ii) subsection (1C) of section 6; or
 - (iii) paragraph (a) of subsection (1) of section 15;
[2004-22]
- (b) in any certificate issued under
 - (i) subsection (5) of section 5C; or
 - (ii) paragraph (d) of subsection (1) of section 6; or
[2004-22]
- (c) in any declaration required under
 - (i) subsection (1) of section 15;
 - (ii) subsection (2) of section 13; or
[2004-22]
- (d) otherwise for the purpose of avoiding the payment of tax or reducing the amount of tax payable under this Act,

wilfully or knowingly or negligently

- (i) makes any false or deceptive statement; or
- (ii) gives any false or deceptive information

is guilty of an offence and is liable on summary conviction to a fine of not less than \$5 000 and not more than \$10 000 or to imprisonment for or a term of 12 months or to both such fine and imprisonment.

[1999-26]

(2) Any person who aids, abets, counsels, incites, conspires with or induces any other person to commit an offence described in subsection (1) is guilty of an

offence and is liable on summary conviction to a fine of \$5 000 or to imprisonment for a term of 12 months.

[1999-26]

Time limit for prosecutions

19.(1) Notwithstanding the provisions of any other enactment, an information in respect of an offence under this Act may be laid on or before a day 3 years after the offence was committed or within one year from the day on which evidence, sufficient in the opinion of the Registrar to justify a prosecution for the offence, came to his knowledge, whichever is later.

(2) The Registrar's certificate as to the day on which such evidence came to his knowledge is conclusive evidence thereof.

Regulations

20. The Minister responsible for Finance may make regulations

- (a) for the registration of agreements, instruments and other documents relating to the transfer of property; and
- (b) generally for carrying into effect this Act.

Adjudication on transfer of shares

21. Notwithstanding anything contained in this Act, where the property to be transferred is shares other than the shares to which subsection (2) of section 3 refers, the duties imposed by this Act on the Registrar of the Supreme Court shall be performed by the Registrar of Corporate Affairs and Intellectual Property; and this Act applies in respect of the transfer of those shares and shall be read and construed as if the words "Registrar of Corporate Affairs and Intellectual Property" were substituted for the words "Registrar of the Supreme Court".

[1988-6]