

BAHAMAS LEGISLATIVE AMENDMENTS: STAMP DUTY

Effective 1 July 2016, various changes to the Bahamian stamp duty regime were made by the Stamp (Amendment) Act, 2016 and the Stamp (First Home Exemption) Act, 2016. These include the following:

Late Stamping of Documents

The surcharge on documents that are unstamped or insufficiently stamped six months after they were executed will have a fixed rate of ten per cent (10%). Previously, the surcharge was applied at a graduated rate, which increased with the lapse of time.

Adjudication by the Treasurer

In determining the amount of stamp duty chargeable, the Treasurer is required to take into consideration the transaction value stated in the instrument or memorandum of transaction. Where there is doubt as to the value of a transaction, the Treasurer may take into consideration the value of any adjoining property sold within twelve (12) months preceding the date of the transaction. Alternatively, the Treasurer may require the parties to obtain an appraisal from a qualified valuer.

The above will not apply to foreclosures or court ordered sales.

New Rates of Stamp Duty

Significant changes have been made to some of the applicable rates, including the following:

- (i) Assignments or transfers of personalty or realty, and assignments, transfers, leases, subleases or licences of a marina slip are now subject to stamp duty at 2.5% of the value of the personalty, realty or marina slip.
- (ii) All leases are now subject to stamp duty at 2.5% of the annual rent reserved.
- (iii) Foreign currency denominated debt instruments are now subject to stamp duty of \$1,000.00.
- (iv) Bonds for the payment of any sum of money are now subject to stamp duty at 1%.
- (v) With respect to a memorandum of association of a company:
 - Where the authorised capital is \$500,000.00 or less - stamp duty of \$100.00; and
 - Where the authorised capital is over \$500,000.00 - stamp duty of \$5.00 for every additional \$100,000.00 or fraction thereof.
- (vi) A resolution increasing the authorised capital of a Bahamian company is subject to stamp duty at the rate of \$5.00 for every \$100,000.00 or fraction thereof.
- (vii) Promissory notes are subject to stamp duty of 1% for every \$50.00 or fraction thereof.
- (viii) Several instruments, including agreements, receipts, powers of attorney, and certain affidavits, certificates, and warrants are no longer subject to stamp duty. Most significantly, no stamp duty will be charged on deeds of rectification or confirmatory conveyances where stamp duty was paid on the initial conveyance and the original parties have not changed but there was a clerical error such as to the description of the property.
- (ix) No stamp duty is payable on instruments or transactions which are not specifically provided for in the First Schedule to the Stamp Act.

First Home Exemption

Previously, where an exemption was granted to a first time homeowner but the document was not stamped, the exemption would no longer apply. However, the Treasurer may stamp the document exempt if an application is made supported by documentary evidence that the exemption had been granted and the 10% surcharge is paid.

Amnesty

Effective 25 May, 2016, the surcharge on unstamped or insufficiently stamped instruments may be waived if the instrument is presented to the Treasurer for stamping prior to 1 September, 2016.

For more information, contact:-

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