

## The STAMP (AMENDMENT) BILL, 2010 ("the Amendment")

In the 2010/11 Budget Communication presented to the House of Assembly by the Prime Minister on Wednesday, 26th May, 2010, the Government communicated its intention to amend the Stamp Act (the "Act"), which is to include increases in stamp duty rates. These amendments are reflected in a draft Stamp (Amendment) Bill, 2010 ("the Bill") which has been presented to Parliament and are intended to come into effect on the 1st July 2010. For your information, a summary of the proposed amendment follows:

### 1. Temporary Waiver of Surcharge

No surcharges/penalties will be payable on documents that are presented for stamping on or before 1st October, 2010. Please note that administratively, this waiver is now in effect.

### 2. Applicable Stamp Duty

The stamp duty in force at the date the documents or transactions are presented for stamping will be the applicable stamp duty (not the stamp duty in force at the date when the transaction is consummated or the document is created).

### 3. Conveyances etc

Stamp duty rates on Conveyances will be increased by 2% (see Item 7 of table below).

### 4. Consideration

"Consideration" has been redefined to mean the greater of the price payable for the sale or transfer of any property or business or the market value of the property or business. Stamp Duty will be payable on the greater amount.

### 5. Time share interests

Time share interests will no longer be

exempted from the Act. The sale of a time share interest will be subject to stamp duty according to the value of the time share interest, at the same rate as a regular conveyance.

### 6. Mortgage

The definition of "Mortgage" will be amended to include any promissory note made supplemental to or in connection with any mortgage or charge, as a consequence promissory notes will be stampable at the same rate as mortgages (presently 1%) in cases where nominal stamp duty has been paid on the mortgage.

### 7. Rule of Construction

In the interpretation of the Act, the rule of construction that ambiguities in revenue statutes are to be construed in favour of the person liable to pay the duty no longer applies.

### 8. Sale of land and connected construction contracts

In the case of transactions involving a transfer of land and a construction contract, stamp duty will be payable upon the combined consideration. Combined considerations of less than \$250,000 will no longer be exempted.

### 9. Order of a Court

Instruments relating to the vesting of property in any person by or in obedience to an order of any court of competent jurisdiction will no longer be exempted from stamp duty.

### 10. Dividends-in-specie

All dividends-in-specie of property, whether occurring in the course of a winding-up of a company or otherwise, will attract stamp duty at the same rate as a conveyance.

**11. Stamp Duty on Instruments and Other Documents in Civil Proceedings before the Supreme Court**

These instruments and other documents will no longer attract stamp duty.

**12. Foreign Currency-denominated debt instruments**

This term will now be used in place of "Eurobond" and the rates on these instruments will be increased. The term will encompass notes, bonds, debentures, or other instruments or certificates of indebtedness or obligations in foreign currency and offered for issuance outside The Bahamas by a licensed bank in The

Bahamas or the parent or affiliate of such licensed bank.

**13. Leases**

Stamp duty rates on Leases will be increased by 2% (see Item 9 of table below).

**14. Transfers of property**

The following transactions will also now be exempt from stamp duty:

- Transfer of property from an individual to a company all of whose shares of every class are beneficially owned by that same individual; and
- Transfer of property from an individual to the trustees of a trust or a class of persons which is unalterably limited to that same individual, his spouse, children and/or grandchildren.

The following table gives a comparison of the existing rates and the proposed rates under the Bill:

	<b>Instrument</b>	<b>Existing Rate</b>	<b>Proposed Rate</b>
1	Agreements other than insurance policies	\$3.00	\$10.00
2	Every affidavit other than an affidavit proving the execution of a document	\$4.00	\$10.00
3	Every power of attorney (general)	\$6.00	\$10.00
4	Every power of attorney (special)	\$4.00	\$10.00
5	Every agreement of submission to arbitrators	\$5.00	\$10.00
6	Every award other than for the payment of money	\$6.00	\$10.00
7	Conveyances, Deeds of Gift, Deeds of Exchange, Reconveyances from Mortgagee to Third Party, Conveyances of land connected to the construction of a dwelling house or other building by the vendor or his affiliate for the purchaser's benefit:  does not exceed \$20,000 exceeds \$20,000 and does not exceed \$50,000 exceeds \$50,000 and does not exceed \$100,000 exceeds \$100,000 and does not exceed 250,000 exceeds \$250,000	  2% 4% 6% 8% 10%	  4% 6% 8% 10% 12%
8	Transactions or Instruments – having the effect of changing the ownership of or beneficial interest in any realty in The Bahamas owned by a company:  does not exceed \$20,000 exceeds \$20,000 and does not exceed \$50,000 exceeds \$50,000 and does not exceed \$100,000 exceeds \$100,000 and does not exceed \$250,000 exceeds \$250,000	  2% 4% 6% 8% 10%	  4% 6% 8% 10% 12%

9	Leases: Less than 7 years 7 to 35 years 35 – 100 years more than 100 years	1% 2% 5% 12%	2% 3% 7% Same
10	Renunciations or release of dower	\$4.00	\$10.00
11	Bond for the payment of any sum of money not exceeding \$300 and not being a Eurobond  Every additional \$300 or fraction thereof	\$4.00  \$2.00	\$10.00  Same
12	(formerly "Every Eurobond") Foreign currency-denominated debt instruments	0.25% of the fee payable for the arrangement, underwriting or placement of each issue of bonds to a maximum duty of \$2,500.00	0.35% of the fee payable for the arrangement, underwriting or placement of each issue of bonds to a maximum duty of \$25,000.00
13	Bottomry bond	\$6.00	\$10.00
14	Bond of indemnity or other bond not being for payment of a specific sum of money	\$6.00	\$10.00
15	Memorandum of association of a company limited by guarantee having no authorised capital	\$60.00	\$100.00
16	Memorandum of association of a company where the capital is \$5,000 or under  Every additional \$1,000 or fraction thereof	\$60.00  \$3.00	\$100.00  \$5.00
17	Every resolution increasing the capital of a company incorporated within The Bahamas for every \$1,000 or fraction thereof of the increase	\$6.00	\$10.00
18	Notarial certificate or declaration	\$2.00	\$5.00
19	Every notarial protest of a Bill, note or other instrument not exceeding \$50  Every additional \$50 or fraction thereof	\$0.50  \$0.50	\$1.00  \$1.00
20	Bill of exchange, bank receipt for withdrawal from funds on deposit, cheque or order, drawn, issued, originating, paid or negotiated in The Bahamas	\$0.25	\$0.40