

REAL ESTATE & DEVELOPMENT BULLETIN

The Stamp (Amendment) Bill, 2010

- **Temporary Waiver of Surcharge**
No surcharges will be payable on documents that are presented for stamping on or before 1 October 2010.
- **Applicable Stamp Duty**
The stamp duty in force at the date documents or transactions are presented for stamping will be the applicable stamp date (not the date when the transaction was consummated or the document was created).
- **Consideration**
Consideration will now be defined as not only the price payable for the sale or transfer of any property or business, but also the market value of the property or business. Stamp Duty will be payable on the greater amount of the stated price or the market value.
- **Time share interests**
Time share interests are no longer 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.
- **Mortgage**
Mortgage has been modified to also include any promissory note made supplemental to or in connection with any mortgage or charge.
- **Rule of Construction**
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 in the interpretation of the Act.
- **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. There is no longer any exemption for combined considerations of less than \$250,000.
- **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.
- **Stamp Duty on Instruments and Other Documents in Civil Proceedings before the Supreme Court**
Such instruments and other documents no longer attract stamp duty.
- **Foreign Currency-denominated debt instruments**
This term will now be used in lieu of "Eurobond". It 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.

- **New Exemptions**

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
- 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

- **Repealed Exemptions**

The following are no longer exempted from stamp duty:

- Import entries approved by the Minister in respect of equipment and vehicles imported by Government agencies

- Import entries in respect of goods recommended by the Minister responsible for housing and approved by the Minister as constituting materials and components of systems building imported by the Minister responsible for Housing or contractor authorised by him for use in the construction housing project

- Instruments relating to the vesting of property in any person by or in obedience to an order of any court of competent jurisdiction

- Import entries in respect of goods recommended by the Minister of Education and approved by the Minister as building materials and supplies for the construction, renovation and repair of educational institutions and furniture for educational institutions

**FIRST [formerly SECOND] SCHEDULE:
INSTRUMENTS USED IN COMMERCIAL AND OTHER TRANSACTIONS**

Please see the following table highlighting the increased cost of stamp duty:

<u>No.</u>	<u>Instrument</u>	<u>Old Price</u>	<u>New Price</u>
1	Agreements other than insurance policies	\$3.00	\$10.00
3	Every affidavit other than an affidavit proving the execution of a document	\$4.00	\$10.00
4	Every power of attorney (general)	\$6.00	\$10.00
5	Every power of attorney (special)	\$4.00	\$10.00
7	Every agreement of submission to arbitrators	\$5.00	\$10.00
9	Every award other than for the payment of money	\$6.00	\$10.00
12	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 if combined is \$250,000 or more		
	does not exceed \$20,000	2%	4%

	exceeds \$20,000 and does not exceed \$50,000	4%	6%
	exceeds \$50,000 and does not exceed \$100,000	6%	8%
	exceeds \$100,000 and does not exceed \$250,000	8%	10%
	exceeds \$250,000	10%	12%
13	Every transaction comprising the sale of a business insofar as it consists of personalty (save for cash and accounts deposit accounts)	4%	6%
14	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	2%	4%
	exceeds \$20,000 and does not exceed \$50,000	4%	6%
	exceeds \$50,000 and does not exceed \$100,000	6%	8%
	exceeds \$100,000 and does not exceed \$250,000	8%	10%
	exceeds \$250,000	10%	12%
16	Leases		
	Less than 7 years	1%	2%
	7 to 35 years	2%	3%
	35 – 100 years	5%	7%
	more than 100 years	12%	Same
17	Renunciations or release of dower	\$4.00	\$10.00

18	Bond for the payment of any sum of money not exceeding \$300 and not being a Eurobond	\$4.00	\$10.00
18A	Every additional \$300 or fraction thereof	\$2.00	Same
19	(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
20	Bottomry bond	\$6.00	\$10.00
21	Bond of indemnity or other bond not being for payment of a specific sum of money	\$6.00	\$10.00
28	Memorandum of association of a company limited by guarantee having no authorised capital	\$60.00	\$100.00
30	Memorandum of association of a company where the capital is \$5,000 or under	\$60.00	\$100.00
30A	Every additional \$1,000 or fraction thereof	\$3.00	\$5.00
31	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
32	Notarial certificate or declaration	\$2.00	\$5.00
33	Every notarial protest of a Bill, note or other instrument not exceeding \$50	\$0.50	\$1.00
33A	Every additional \$50 or fraction thereof	\$0.50	\$1.00
53	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