

LAND REGISTRY NOTICE

No. 2/2005 Miscellaneous Amendments (Budgetary Provisions) Act -
Act No. 22 of 2004

Amendments to law and procedure relating to (1) Leases and
(2) Property Transfer Tax Act, Cap. 84A as a result of Act No. 22 of 2004

To: **All Members of the Bar**

(1) **LEASES**

1. As a general principle, a lease for a term of less than 25 years is no longer subject to property transfer tax, effective 13 December 2004.
2. Where a lease is renewed for a term that, when added to any previous term(s), totals 25 years or more, tax is payable at the usual rate of 7.5% on the value of the renewed term.
3. Where a new lease (i.e. a different lease, not a lease that has been renewed) is granted that, when added to any previous term between the same or connected persons, totals 25 years or more, tax is payable on the value of the new lease.
4. **Whether or not property transfer tax is payable on a lease, it must be recorded under the *Property Act, Cap. 236*, within 3 months of execution, otherwise "it shall be of no effect in law."** This is provided that the lease is one that Section 149 of the *Property Act* requires to be in writing. Normally, that Act requires that leases for more than one (1) year must be in writing.
5. **Leases under the *Land Registration Act, Cap. 229*, should also be registered otherwise they are of no effect at law.** Leases for more than 2 years must be in the prescribed form.
6. **For a new or renewed lease to be exempt from the tax, it must contain a statement by the transferor certifying that it is not one which, when added to any previous term(s), totals 25 years or more.** This certificate may also be included in a supplementary declaration.
7. The tax on leases totalling 25 years or more will still be payable notwithstanding a break of up to 2 years between the old lease and the new or renewed one.

(2) **PROPERTY TRANSFER TAX ACT**

1. Effective December 13, 2004, Section 13 of the *Property Transfer Tax Act* has been amended to make it necessary for certain persons to submit to the Registrar of Titles a Certificate from the Comptroller of Customs. These are normally commercial vendors who have been granted special input tax concessions under the *VAT Act (1996 - No. 15)* and are prevented from selling the property within a certain period without repaying the tax. The Comptroller's Certificate will state either that no input has been allowed under Section 46(2) of the *VAT Act* or that input tax previously allowed has been repaid or sufficient security provided therefore.
2. **All documents or instruments of transfer of property must, however, now contain a statement by the transferor declaring whether or not input tax was previously allowed to him. Once the transferor declares that no input tax was allowed then the Comptroller's Certificate is not necessary.**
3. A penalty of not less than \$5,000 and not more than \$10,000 and/or imprisonment for a term of 12 months attaches to any person who willfully, knowingly or negligently makes any false or deceptive statement or gives any false or deceptive information.
4. Unpaid input tax ranks as a first charge on the affected land and is also an overriding interest under the provisions of the *Land Registration Act*, Cap. 229.
5. Effective February 15, 2005, the Land Registry will be unable to accept any instruments or documents transferring property unless the appropriate declarations are contained in those instruments or transfers and, if applicable, the Comptroller's Certificate is produced
6. The form of Certificate is available from the office of the Director of VAT. Mrs. Annette Weekes.

Extended to
Feb 18th


TIMOTHY O. MAYNARD
REGISTRAR OF TITLES

2005-01-10

LAND REGISTRY NOTICE

No. 3/2005 Miscellaneous Amendments (Budgetary Provisions) Act -
Act No. 22 of 2004

Amendments to law and procedure relating to (1) Leases and
(2) Property Transfer Tax Act, Cap. 84A as a result of Act No. 22 of 2004

To: All Members of the Bar

Further to our Notice of January 10, 2005, the Land Registry offers the following form of Certificate and Declaration consequent upon last December's amendments to the law and procedure relating to leases and property transfer tax.

Section 5C (5) - Certificate/Supplementary Declaration of Vendor - All Leases.

"The Vendor/Transferor herein certifies and declares that this Lease is / is not one in respect of which subsection (2) or (3) of Section 5C of the Property Transfer Tax Act, Cap. 84A of the Laws of Barbados applies. (Modify as appropriate)"

Section 13 (2) - Declaration of Vendor - For all instruments of transfer

"For the purposes of Section 13(2) of the Property Transfer Tax Act, Cap. 84A, the Vendor/Transferor hereby declares that no input tax has been previously allowed under Section 46(2) of the Value Added Tax Act, Cap. 87 of the Laws of Barbados."

"For the purposes of Section 13(2) of the Property Transfer Tax Act, Cap. 84A, the Vendor/Transferor hereby declares that input tax has been previously allowed under Section 46(2) of the Value Added Tax Act, Cap. 87 of the Laws of Barbados."

TIMOTHY O. MAYNARD
REGISTRAR OF TITLES
2005-01-17

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