CHAPTER 370

STAMP

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CHAPTER 370

STAMP

An Act relating to the imposition of stamp duties.

[Commencement 14th May, 1925]

Short title.

1. This Act may be cited as the Stamp Act.

Interpretation. *34 of 197.*

2. (1) In this Act, unless the context otherwise requires —

"Bahamian" means —

(a) a citizen of The Bahamas; *11 of 2005, s. 2.*

(b) a company in which not less than 60% of the shares are beneficially owned by Bahamians;

"beneficial owner" means any person who is beneficially interested in any property including a beneficiary under a trust irrespective of whether his interest is vested or not and "beneficially owned" shall be construed accordingly; *11 of 2005, s. 2.*

"business" includes any part of a business but does not include — *11 of 2005, s. 2.*

(a) any business designated or deemed to be non-resident under the Exchange Control Regulations Act; Ch. 360.

(b) any business whose annual turnover as defined by the Business Licence Act is less than five hundred thousand dollars;

(c) any business falling within a category of business declared by order of the Minister published in the Gazette to be exempt from the payment of stamp duty on the sale of that business;

11 of 2005, s. 2. "change in beneficial ownership" in relation to a transfer of property means the substitution or addition of any one or more persons as the beneficial owner or owners of that property;

11 of 2005, s. 2. "company" means —

(a) a company incorporated under the Companies Act other than a public company as therein defined or any company not for profit within the meaning of section 160 of the said Act;

Ch. 308.

(b) a company incorporated under the International Business Companies Act;

Ch. 309.

(c) a company incorporated under the laws of another jurisdiction; or

(d) any other legal entity having the capacity to acquire and dispose of property save for a body corporate established by an Act of Parliament;

13 of 2010, s. 2. "consideration" means the price that is payable on the sale or transfer of any property or business, or the value of such property or business, whichever is the greater;

11 of 2005, s. 2. "declaration of trust" includes any instrument by which a trust is created;

11 of 2005, s. 2. "executed" and "execution" or "executing" with reference to an instrument under seal, means "signed" and "signature" or "signing";

13 of 2010, s. 2. "Foreign currency-denominated debt instruments" means notes, bonds, debentures, or other instruments or certificates of indebtedness or obligation, including contingent indebtedness or obligation —

(a) denominated in a currency other than Bahamian currency;

(b) of any maturity whatsoever; and

(c) offered for issuance outside The Bahamas by a licensed bank in The Bahamas;

"instrument" means every written or printed or partly written and partly printed document including the memorandum mentioned in section 21 whether under seal or not; *11 of 2005, s. 2.* *34 of 2008, Sch.*

"land" means any realty or interest in realty situated in The Bahamas; or any share in a landowning company, except for a leasehold interest for a term of less than seven years; *11 of 2005, s. 2.* *13 of 2010, s. 2.*

"land owning company" means any company that owns land directly; or is the parent of any subsidiary company that owns land; *18 of 2008, s. 2.*

"marketable security" means a security of such a description as to be capable of being sold in any stock market for the time being approved for this purpose by the Minister of Finance by notice in the *Gazette*; *27 of 1971, s. 2.* *11 of 2005, s. 2.*

"merger" means any merger, consolidation or amalgamation of two or more companies under the Companies Act or under the International Business Companies Act; *11 of 2005, s. 2.* Ch. 308. Ch. 309.

"Minister" means the Minister of Finance; *E.L.A.O., 1974.*

"mortgage" includes any mortgage, whether legal or equitable; a debenture creating a charge, whether fixed or floating; any promissory note made supplemental to or in connection with any mortgage or charge; and any other charge or incumbrance otherwise than a charge created by statute or arising from any order of a court; *18 of 2008, s. 2.*

"nominee" includes a trustee, agent or other fiduciary; *11 of 2005, s. 2.*

"parent" means any company that owns the majority of the issued shares of any class of shares in another company; or any company that ultimately controls another company either directly or *11 of 2005, s. 2.*

through its control of an intervening subsidiary or subsidiaries however many in number;

11 of 2005, s. 2. "party to an instrument" includes any person in whose favour an instrument is executed notwithstanding that that person has not himself executed the instrument; and "parties" shall be construed accordingly;

11 of 2005, s. 2. "property" includes land and personalty of every description and property that is partly in the nature of realty and partly in the nature of personalty;

"rules" means rules made under this Act;

11 of 2005, s. 2. "sale" includes any disposition (including exchange) of any property by whatever means for valuable consideration;

11 of 2005, s. 2. "sale of a business" includes the sale, in whole or in part of the goodwill and other property comprised in any business either directly or by a transfer of shares in a company that owns the goodwill or other property comprised in that business;

11 of 2005, s. 2. "sham" means an instrument created for the purposes of evading or otherwise defrauding the Government of any duty payable under this Act;

11 of 2005, s. 2. "share" in a company includes —

(a) any interest in any share in any company;

(b) any unitized equity in any company;

(c) any security that is convertible into shares in any company; and

(d) any entitlement to participate in the division of profits in the event of the winding-up of any company;

11 of 2005, s. 2. "subsidiary" means any company the majority of whose issued shares of any class are owned or controlled by another company;

11 of 2005, s. 2. "transaction" includes one or more elements or stages of a transaction or a series of transactions irrespective of whether the parties are uniformly

the same in each instance and any reference to the stamping of a transaction means the stamping of the documents effecting or evidencing that transaction or the memorandum of transaction mentioned in section 14(3);

"transfer of land" includes — *11 of 2005, s. 2.*

(a) any conveyance, assignment or other disposition of any land, whether effected or evidenced by deed or not and whether for valuable consideration or by way of gift;

(b) the sale, assignment or delivery of any chattels or other personalty to the purchaser of any land or his nominee as a part of or incidental to any transaction relating to the transfer of any land;

(c) any exchange of land for other land;

(d) the issuance or transfer to any person or his nominee of any shares in any landowning company; or

(e) any other transaction whether by way of merger or otherwise, that has the effect of vesting the beneficial interest in any land or any shares in a landowning company in any person alone or with any other person;

"value" means the sum that would be expected to be realised on the sale of any property at the time of the sale in the open market by a willing seller to a willing buyer at market value; *11 of 2005, s. 2.* *13 of 2010, s. 2.* *18 of 2008, s. 2.*

(2) Any reference in this Act to the "vendor" or "purchaser" of any property or any party to any transaction shall include the respective nominees of such persons.

(3) References in this Act to any court means a court in The Bahamas of competent jurisdiction. *13 of 2010, s. 2.*

(4) The rule of construction that ambiguities in revenue statutes are to be construed in favour of the person liable to pay the duty shall not apply in the interpretation of this Act. *13 of 2010, s. 2.*

(5) In the interpretation and application of this Act — *21 of 2011, s. 2.*

(a) substance shall be given priority over form;

(b) the applicability of stamp duty to a particular instrument or transaction shall be determined

having regard to the entirety of the series of instruments or transactions to which it is connected or related; and

(c) the Treasurer shall, in determining the applicability of stamp duty pursuant to paragraph (b)—

(i) ignore the internal characterisation of an instrument or transaction that, in the opinion of the Treasurer, does not reflect the true commercial reality of such instrument or transaction;

(ii) ignore the insertion of steps in, or the creation of elements of, transactions that, in the opinion of the Treasurer, are not intended to have commercial efficacy but have been used to provide a pretext for the avoidance of stamp duty;

21 of 2011, s. 2.

(6) For the purposes of this Act —

(a) a sale of property shall be deemed to have been completed and the sale exigible to stamp duty —

(i) where effective enjoyment and control of such property passes to the purchaser; and

(ii) notwithstanding the absence or deferral of a conveyance, assignment or other completion documentation;

(b) an option to purchase property shall be deemed to have been exercised in full, the purchase completed and the transaction exigible to stamp duty —

(i) as from the date that the grantee of the option exercises or enjoys any power, right or benefit of a kind normally exercisable or enjoyable only by a purchaser upon completion of sale; and

(ii) notwithstanding that the option to purchase the property has not been formally exercised by the grantee of the option;

(c) a sale of property completed in escrow shall be deemed to have been completed, and the sale exigible to stamp duty, on the first anniversary of the escrow unless —

(i) the sale was cancelled, and a new agreement for sale of such property has not been

executed by the parties, prior to the first anniversary of the escrow;

(ii) the sale was completed in accordance with the escrow conditions prior to such first anniversary; or

(iii) upon application by a party to the agreement for sale, the Treasurer is satisfied after due inquiry that the purpose of continuing the escrow is not to delay or avoid the payment of stamp duty.

(7) Without prejudice to any applicable exemption under the Second Schedule — *21 of 2011, s. 2.* Second Schedule.

(a) stamp duty payable under this Act on the sale of a business shall also apply to a sale of the business of a public company;

(b) a sale or purchase of property by a public company shall be exigible to stamp duty to the same extent as the sale or purchase of property by a private company;

(c) the sale of the controlling interest in, or the book of business of, an insurance company or bank and or trust company incorporated under the laws of, and doing business in, The Bahamas shall be exigible to stamp duty in accordance with item 13 of the First Schedule. First Schedule.

(8) Notwithstanding any provision of the Exempted Limited Partnership Act an exempted limited partnership— *21 of 2011, s. 2.* Ch. 312.

(a) notwithstanding when it was established, shall be treated for all purposes of this Act as if it were a company incorporated under the International Business Companies Act; and Ch. 309.

(b) shall not be entitled to an exemption from stamp duty in any case where an international business company would not be entitled to such exemption.

(9) Notwithstanding item 33 of the Second Schedule, a transfer by the personal representatives of property comprised in the estate of a deceased person shall be exigible to stamp duty to the same extent as an ordinary conveyance of real estate or personalty, as the case may be, where the transfer is made at the direction, or with the concurrence, of the person beneficially entitled to such property. *21 of 2011, s. 2.* Second Schedule.

Stamp duties imposed.
Second Schedule
4 of 1990, s. 2.
13 of 2010, s. 3.

3. (1) Subject to the exemptions contained in the Second Schedule to this Act there shall be raised, levied, collected and paid unto Her Majesty the Queen for the use and support of The Bahamas upon and in respect of the several instruments or transactions specified in the First Schedule, the several duties in such Schedule specified.

13 of 2010, s. 3.

(2) Every instrument or transaction shall, notwithstanding the date of execution, be chargeable with the *ad valorem* duty as fixed by law at the time such instrument or transaction is presented for stamping by the Treasurer.

Financial institutions must file reports and submit records.
20 of 2014, s. 2.

3A. (1) A financial institution shall within thirty days after the end of each calendar month —

(a) file in the form prescribed by the Treasurer a report on the stamp duty collected by such institution during the calendar month; and

(b) pay to the Treasury the stamp duty collected during the calendar month.

(2) A financial institution which fails within the time prescribed in subsection (1) to file a report, shall pay a late filing fee of one thousand dollars.

(3) The Treasurer may, in order to determine the extent of the liability to stamp duty of a financial institution, or a particular instrument or transaction, require such institution to submit for the review of the Treasurer records in such form as the Treasurer may require relating or connected to the institution, instrument or transaction.

(4) Without prejudice to the generality of subsection (3), the Treasurer may require a financial institution to submit on such regular basis and in such form as the Treasurer may require —

(a) records relating to transactions falling within items 51, 51A, 52, 53 and 53A of the First Schedule; and

(b) a certificate attesting to the institution's total stamp duty liability based on its audited financial statements.

(5) A financial institution shall, within thirty days of receipt of a written request from the Treasurer pursuant to paragraph (4), submit the records to the Treasurer in the form requested.

(6) The Treasurer may impose on a financial institution which fails to submit records within the time

prescribed in subsection (5) a penalty of one thousand dollars for each day, or part of a day, during which the failure continues.

(7) For the purposes of this section, a financial institution is an institution within the meaning of section 3 of the Financial Transactions Reporting Act. Ch. 368.

Stamp duty exemption on home purchases, transfer of mortgages and domestic loans. *13 of 2008, s. 2.*

3B. (1) Every application for the exemption of stamp duty on instruments executed after the coming into force of this Act[1] for any of the following purposes —

(a) the purchase of a dwelling house;

(b) the purchase and the financing of a dwelling house;

(c) the purchase and the financing of a dwelling house combined with other domestic loans;

(d) the transfer between licensed lending institutions of a home mortgage, or of a home mortgage combined with other domestic loans, *28 of 2013, s. 2.*

shall be made in writing to the Financial Secretary and accompanied by an affidavit by the applicant stating —

(i) that he intends to construct a dwelling house for residential purposes and will reside in the dwelling house for an aggregate period of not less than nine months; or

(ii) that he occupies and resides or intends to occupy and reside in the dwelling house for an aggregate period of not less than nine months,

and that there is not and has never been any other dwelling house held by him or on his behalf situated either in or outside The Bahamas.

(2) An application under subsection (1) shall not be made where the value of property and dwelling house exceeds five hundred thousand dollars. *28 of 2013, s. 2.*

(3) Any person who applies under subsection (1) and makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, commits an offence and is liable on summary conviction to a fine of five thousand dollars in addition to the amount of any exemption granted.

[1] 1st July 2008.

(4) An applicant under paragraph (a), (b), (c), (d) or (e) of subsection (1) who complies with the provisions of this section shall be eligible for exemption from the payment of stamp duty on the relevant instruments.

21 of 2011, s. 3.

(5) All transfers between licensed lending institutions under paragraph (e) of subsection (1) shall be exempted from stamp duty on the instruments of transfer and an applicant shall not be required to submit an affidavit with his application.

(6) No claim for relief from taxes under this section shall be obtained in respect of real or personal property used for commercial purposes.

(7) For the purposes of this section —

"domestic loans" means non-business loans relating to the home, house or household, or pertaining to the family affairs, of the borrower;

"dwelling house" includes a condominium unit and a duplex, exclusive of any part that is not owner occupied;

"home mortgage" means a mortgage in respect of a dwelling house occupied by the mortgagor exclusively as a family residence;

"licensed lending institutions" means banks licensed under the Central Bank of The Bahamas Act, Ch. 351. insurance companies licensed under the Insurance Act, Ch. 347. and credit unions that have member representatives in the Apex Body called the National League established under section 115 of the Cooperatives Societies Act, Ch. 314.;

28 of 2013, s. 2.

"value" means the current market value of the sum that would be expected to be realised on the sale of any property by a willing seller to a willing buyer at the time of filing for the exemption.

18 of 2012, s. 2.

(8) Subject to subsection (9) the grant of an exemption under this section shall be made only —

(a) if the dwelling house in respect of which an application for exemption is made is the first and only home owned by the applicant situated either in or outside The Bahamas;

28 of 2013, s. 2.

(b) if proof of citizenship in the Commonwealth of The Bahamas is produced;

(c) if the value of the property and dwelling house where the applicant occupies and resides or intends to occupy and reside for a minimum aggregate period of nine months, does not exceed five hundred thousand dollars; and

(d) on one occasion to the same applicant.

18 of 2012, s. 2.

(9) The foregoing provisions of this section shall apply *mutatis mutandis* to any person who makes an application in respect of a dwelling house where such applicant in an affidavit states that his purchase of that dwelling house is to replace the first dwelling house, and which he no longer owns due to steps taken against him by the mortgagee as a result of the inability of the applicant to meet his fiscal obligations under a mortgage.

18 of 2012, s. 2.

(10) In the foregoing provisions of this section, the reference to "land" or "dwelling house" shall include land held by way of a long lease in excess of fifty years and any dwelling house thereon.

18 of 2012, s. 2.

(11) Before an exemption is granted under this section, the applicant shall furnish proof of such matters relevant to the determination of the application as the Minister may prescribe by regulations.

28 of 2013, s. 2.

(12) Section 3B of this Act shall expire on the 30th day of June, 2018.

Name and management of duties.
E.L.A.O., 1974.

4. The duties imposed and regulated by this Act shall be denominated stamp duties, and shall be under the management of the Treasurer who shall have all necessary powers and authorities for carrying this Act into execution, subject however to the general control and direction of the Minister.

Stamps to be adhesive.
21 of 1967, s. 2.

5. Except as in this Act otherwise provided and except in the case of postage meter machines, the stamps to be used under this Act shall be adhesive.

Duties may be made up by several stamps.

6. The duties imposed by this Act may be made up by several stamps and stamps of greater value than is required may be used upon any instrument.

Stamp vendors.
7 of 1963, s. 2.
E.L.A.O., 1974.

7. The Postmaster General, officers in charge of branch post offices, district postmasters, commissioners and such other persons as may from time to time be licensed by the Minister shall be authorised vendors of stamps.

Control and issue of postage stamps.

7 of 1963, s. 3.

8. (1) Notwithstanding the provisions of section 4 of this Act, the Postmaster General shall have the custody, management and control of postage stamps.

(2) The Postmaster General shall from time to time upon the requisition of officers in charge of branch post offices, district postmasters or commissioners issue postage stamps to them and take their receipts for such postage stamps.

(3) Subject to the rules, the Postmaster General shall from time to time sell postage stamps to persons licensed as authorised vendors under the provisions of section 7 of this Act.

Postage stamps accounts and audit.

7 of 1963, s. 4; 21 of 1967, s. 3.

9. (1) The Postmaster General, officers in charge of branch post offices, district postmasters and commissioners shall keep books in which transactions relating to the receipt and sale of postage stamps and to the prepayment of postage in the case of postage meter machines, shall be duly entered and such books shall be duly audited.

Postmaster General to make payments to Treasury.

21 of 1967, s. 3.

(2) All sums received by district postmasters, officers in charge of branch post offices and commissioners for the sale of postage stamps shall be paid to the Postmaster General and all such sums, together with sums received for the sale of postage stamps and for the prepayment of postage in the case of postage meter machines at the main post office in Nassau, shall be paid by the Postmaster General to the Treasury.

Spoiled stamps.

23 of 1956, s. 2.

10. (1) The value of stamps issued under any Act which may be casually destroyed or spoiled may be allowed for by the Treasurer subject to a deduction of ten per centum thereon, on proof being given to his satisfaction by declaration or otherwise of the stamps having been so destroyed or spoiled.

(2) The value of stamps on any document which may have been casually destroyed or damaged or any document which may have been drawn but not used or stamped in blank may be allowed by the Treasurer subject to a deduction of ten per centum thereon on proof being given to his satisfaction by declaration or otherwise of the documents having been destroyed, damaged, not used or stamped in blank:

Provided that all such damaged, unused or blank documents shall be produced to the Treasurer who shall cancel and make void such stamps.

(3) When a document has been over-stamped the Treasurer may cancel and make void and allow the value of the excess stamps, subject to a deduction of ten per centum or forty dollars thereon, whichever is the lesser amount, on proof being given to his satisfaction by declaration or otherwise of the document having been so over-stamped. *5 of 1987, s. 2.*

(4) No public officer shall be liable for the value of any stamps casually destroyed or spoiled while in his custody upon his producing satisfactory proof as aforesaid:

Provided that all such spoiled stamps shall be produced and given up to the Treasurer.

Allowances how to be made. *23 of 1956, s. 3.*

11. In any case in which allowance is made under section 10 of this Act the Treasurer may give in lieu thereof other stamps of the same denomination and value, or if required, and he thinks proper, stamps of any other denomination to the same amount in value, or at his discretion the same value in money deducting the proper discount and proper allowances, if any, on the purchase of stamps of the like description.

Documents may not be recorded until duly stamped. *47 of 1926, s. 2.*

12. The Registrar General shall not receive for record, nor enter in any of the books of record in his office, any instrument which he is required by any Act to enter or record, and which is required to be stamped by any Act, unless the said instrument shall be duly stamped and the stamps thereon cancelled as required by this Act.

13. *Repealed.* *13 of 2010, s. 4.*

Duty of person executing to stamp instrument and cancel stamps. *11 of 2005, s. 3.*

14. (1) Except as in this Act otherwise provided, it shall be the joint and several obligation of every party to any instrument or transaction required by this Act or any other Act to be stamped, to cause the same to be duly stamped and the stamps thereon cancelled as required by this Act.

(2) Where more than one person executes such instrument or takes part in such transaction the cancellation of the stamps thereon may be made by only one of such persons.

(3) Where any transaction chargeable for stamp duty under this Act is not contained in or evidenced by any instrument or where the parties to the transaction have determined in good faith that the instrument evidencing the transaction is not in a form suitable for the impressing of a stamp thereon it shall be the joint and several obligation of

the parties to the transaction to execute a memorandum of transaction setting out the consideration and all other facts and circumstances affecting the stamp duty chargeable in respect of the transaction and the Treasurer shall upon receipt of the duty payable on the transaction, impress the said memorandum with a stamp denoting such receipt and thereupon the said transaction shall be deemed duly stamped subject to the provisions of this Act relating to surcharges and additional duty should the same be applicable.

21 of 2011, s. 4.

(4) For the avoidance of doubt —

(a) the stamp duty payable at the time of execution of an instrument relating to a transfer of land, or an interest in land, shall be based on the market value of the land or interest affected by the instrument;

(b) the stamp duty payable at the time of execution of an instrument relating to the sale of a business, or an interest in a business, shall be based on the market value of the business or interest affected by the instrument.

21 of 2011, s. 4.

(5) For the purposes of subsection (4), market value means —

(a) the market value on the date when the instrument is presented for stamping; or

(b) where not more than six months have elapsed between the execution of the instrument and its presentation for stamping, the market value on the date when the instrument was executed.

21 of 2011, s. 4.

(6) The Treasurer may, in order to determine the market value of any land or business, or interest in any land or business, require the parties to an instrument or transaction, or any one of such parties, to obtain an appraisal from a person who is, in the opinion of the Treasurer, qualified to provide the same.

21 of 2011, s. 4.

(7) The cost of an appraisal pursuant to subsection (6) shall be borne by the parties to the instrument or transaction or any one of them, as the case may be, and the Treasurer shall not deduct such cost from any stamp duty payable by any one or more of such parties.

21 of 2011, s. 4.

(8) The Treasurer may, in his discretion, accept or reject an appraisal obtained pursuant to subsection (6).

Stamps on instruments to be cancelled.
47 of 1926, s. 2.
11 of 2005, s. 4.

15. (1) Except as in this Act otherwise provided, an instrument, the duty on which is required or permitted by law to be denoted by an adhesive stamp shall not be deemed to be duly stamped unless the person required by law to stamp it or the witness to the instrument or the drawer or preparer thereof cancels the stamps thereon at the time of execution by writing or otherwise indelibly marking on or across them his name or initials, or the name or initials of his firm, or the name or initials of the person for whom he is acting, so that the stamps may be effectually cancelled and rendered incapable of being used for any other instrument.

47 of 1926, s. 2.

(2) Every such person shall also mark each stamp used to denote the stamp duty upon an instrument, with the true date of his cancelling it.

47 of 1926, s. 2.

(3) Stamps affixed to an instrument executed by an illiterate, or a person temporarily incapacitated from writing, may be cancelled by any person who signs as a witness to such execution, or by the drawer or preparer of the instrument.

Stamps to be cancelled in manner prescribed by the rules.

16. (1) The stamps on any instrument required to be issued or filed in any court or issued by, delivered to or exhibited to, or deposited with any public officer shall be cancelled by the officer of the court or other public officer on issue or receipt thereof; and such cancellation may be effected in accordance with this Act or in such manner as may be prescribed by the rules:

Provided that this section shall not be deemed to refer to instruments lodged for record in the office of the Registrar General.

(2) The stamps on a notarial act shall be cancelled by the notary public.

Stamping after execution.
15 of 2016, s. 2.

17. (1) Except where express provision to the contrary is made by this or any other Act, any unstamped or insufficiently stamped instrument may be duly stamped by the Treasurer after its execution on payment to the Treasurer of the unpaid duty and a surcharge calculated at the sum of ten per centum where the time elapsing from execution to payment exceeds six months.

SURCHARGE

	Time elapsing from execution to payment	**Percentage surcharge on unpaid duty**
(a)	6 months - 1 year	15%
(b)	Over 1 year - 10 years	20%
(c)	Over 10 year - 20 years	25%
(d)	Over 20 years - 30 years	30%
(e)	Over 30 years	35%

(2) Whenever it is made to appear to the satisfaction of the Treasurer by declaration or otherwise, that the omission duly to stamp any instrument or transaction has not been wilful or with an intent to defraud, the Treasurer may remit the whole or any part of the surcharge payable on stamping the instrument or transaction.

(3) Where an instrument or transaction has been duly stamped but additional stamp duty becomes payable thereon by virtue of any event or circumstance occurring subsequent to the original stamping, the instrument or transaction shall not be deemed duly stamped until such additional stamp duty has been paid together with a surcharge mentioned in this subsection to the extent that the same may be applicable of ten percent of the unpaid duty where the time elapsing from the occurrence of the said event or circumstance to the date of payment exceeds six months but does not exceed one year or a surcharge of fifteen percent where the time elapsing from the date of the said event or circumstance to the date of payment is one year or more.

(4) Any unstamped instrument or transaction executed prior to the commencement of this Act shall be subject to the surcharges mentioned in this section save that the time periods mentioned therein shall run from the commencement of this Act rather than the date of execution of the unstamped instrument or transaction.

(5) Whenever it is made to appear to the satisfaction of the Treasurer by declaration or otherwise that the omission to cancel the stamps on any instrument has not been wilful and that the stamps appearing on such instrument were affixed thereto at the proper time he may

cancel such stamps in accordance with this Act or in such manner as may be prescribed by the rules.

Temporary waiver of surcharge. *13 of 2010, s. 5.*

17A. (1) The Treasurer shall, in respect of an instrument or transaction subject to a surcharge, waive payment of such surcharge where the instrument or transaction is presented for stamping on or before 1st October, 2010.

13 of 2010, s. 5.

(2) Notwithstanding subsection (2) of section 3, an instrument or transaction presented for stamping pursuant to subsection (1) shall be chargeable with the *ad valorem* duty as fixed on the 30th June, 2010.

Unstamped instruments not to be given in evidence.

18. No instrument which is required by any Act to be stamped shall be pleaded or given in evidence in any court unless the said instrument shall be duly stamped and the stamps thereon cancelled, except as hereinafter provided.

Production in evidence of unstamped instrument. *5 of 1987, s. 2. 11 of 2005, s. 6.*

19. (1) Upon the production in evidence in any court or judge's chambers of any instrument required by any Act to be stamped which is not duly stamped and the stamps thereon cancelled, the judge or presiding magistrate may impose a penalty of five hundred dollars on the person required by any Act to stamp the said instrument and on payment thereof together with the stamp duty, or upon payment of the stamp duty only at the discretion of the judge or presiding magistrate, by such person or by the party producing such instrument the said instrument shall (saving all just exceptions on other grounds) be admissible in evidence. The judge or presiding magistrate may, in his discretion, grant any adjournment necessary for the proper stamping of any instrument.

11 of 2005, s. 6.

(2) The Registrar or clerk of the court (if any) or the presiding magistrate shall, upon payment to him of the stamp duty on the instrument and the penalty (if any) imposed, give a receipt for the amount of the duty and penalty (if any). The Treasurer, or in the case of a Family Island, the commissioner, shall, upon the production to him of such receipt, cause the instrument to be stamped with the stamps equivalent to the duty and penalty (if any) so paid; and, in addition to the usual mode of cancellation, he shall write the word "Penalty" on or across each stamp denoting the penalty:

Provided that any such instrument may be stamped with an impressed stamp in such form and in such manner

as may be directed by the rules so as to denote that such duty and penalty (if any) have been paid.

(3) The Registrar or clerk of the court (if any) or presiding magistrate, shall, as soon as practicable, pay the said duty and penalty (if any) into the Treasury.

(4) The decision of the Supreme Court or of a stipendiary and circuit magistrate as to the necessity for or insufficiency of stamps upon any instrument or as to the amount payable as stamp duty thereon shall be final. In all other cases an appeal shall lie from the decision of the presiding magistrate in accordance with the provisions of any Act regulating appeals from a magistrate's judgment.

(5) No instrument shall in any criminal proceeding be inadmissible in evidence for want of a stamp.

Court fees and stamps to be denoted by impressed stamp. *E.L.A.O., 1974. 11 of 2005, s. 7.*

20. All stamp duties for the time being payable in any court may be paid in money and such duties and all fees for the time being payable in any court or public department or office connected with the public service or to any officer thereof, may be denoted, by means of a stamp to be impressed, on the face of the instrument in respect of which such duties and fees are payable, by the officer receiving the said duties and fees. The stamp shall be in the form now used in the Registry of the Supreme Court, or in such other form as the Minister shall direct. The officer receiving such duties and fees shall give a receipt therefor and otherwise deal therewith as may be prescribed by the rules.

Facts affecting duty to be set forth in instrument. *11 of 2005, s. 8.*

21. (1) The consideration and all other facts and circumstances affecting the stamp duty chargeable in respect of any instrument or transaction shall be fully and truly set forth in such instrument or, where the circumstances referred to in section 20(2) apply, in a memorandum of the transaction.

(2) The Registrar General shall not receive for record nor enter in any of the books of record in his office, any instrument which he is required by any Act to enter or record, and which is required to be stamped by any Act, unless he is satisfied that, notwithstanding the consideration mentioned in such instrument, the same has been duly stamped and the stamps thereon cancelled as required by this Act.

(3) Where any permission or approval is granted or issued under the Exchange Control Regulations Act or the Ch. 360.

International Persons Landholding Act in respect of the acquisition of any land or the sale of any business it shall be a condition of such permission, permit or approval, whether expressed therein or not, that in the event that the applicable stamp duty on the instrument or transaction to which such permission, permit or approval relates remains unpaid for a period of eighteen months from the time when such stamp duty became due, such permission, permit or approval shall be conclusively deemed to be rescinded as from the expiration of the said period. Ch. 140.

(4) Subsection (3) shall not operate so as to prejudice any *bona fide* purchaser for value who may have acquired the land or a business without actual or constructive notice that any relevant permission, permit or approval has been rescinded by reason of the non-payment of any applicable stamp duty.

(5) Any permission, permit or approval rescinded under this section shall automatically be re-instated with effect from the date of recission upon payment of the unpaid stamp duty and any applicable surcharge.

(6) A person on whose behalf an instrument is presented for stamping shall when requested by the Treasurer produce a sworn declaration setting out the consideration and all facts and circumstances relevant to the charging of stamp duty on the instrument or the transaction to which it relates.

Offences relating to instruments. *11 of 2005, s. 9.*

22. Any person who, with intent to defraud the Government of any duty —

(a) executes any instrument in which all the facts and circumstances required by this Act to be set forth in such instrument are not fully and truly set forth;

(b) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all such facts and circumstances;

(c) being employed or concerned in or about the preparation of any instrument, back-dates the same such that it purports to be executed prior to the commencement of this Act[2] when in fact it was executed after the commencement of this Act;

[2] 1st July, 2005.

(d) executes a back-dated instrument knowing the same to be back-dated;

(e) executes any instrument purporting to create a mortgage over any property in connection with the sale of any business or property knowing the same to be a sham,

shall be guilty of an offence against this Act and be liable to a penalty of five thousand dollars.

Penalty for neglecting to stamp instrument.

27 of 1971, First Sch.
11 of 2005, s. 10.

23. Every person who being required by any Act to stamp any instrument, and to cancel the stamps thereon, wilfully neglects or refuses duly and effectually to do so in the manner therein provided shall be guilty of an offence against such Act, and shall be liable to a penalty of five thousand dollars.

Misdemeanours.

24. Every person who —

(a) fraudulently uses or attempts to use any stamp which has been cut, torn or removed from any instrument;

(b) fraudulently alters or attempts to alter any instrument with intent to use any stamp on any such instrument;

(c) fraudulently cancels or attempts to cancel any stamp by writing thereon, or on any instrument to which the same may be affixed, or fraudulently obliterates or removes or attempts to obliterate or remove the cancellation of any stamp,

shall in every such case be guilty of a misdemeanour and on conviction thereof shall be liable to imprisonment for two years.

Frauds.

25. Any person who —

(a) fraudulently removes or causes to be removed from any instrument an adhesive stamp or affixes to any instrument any stamp which has been so removed, with intent that the stamp may be used again;

(b) sells or offers for sale or utters or affixes any adhesive stamp which has to his knowledge been so removed;

(c) utters any instrument having thereon any adhesive stamp which has to his knowledge been so removed;

(d) practises or is concerned in any fraudulent act, contrivance or device not specially provided for, with intent to defraud Her Majesty the Queen of any fee payable in stamps,

shall be guilty of an offence against this Act, and be liable to a penalty of five thousand dollars. *11 of 2005, s. 11.*

Offences relating to receipts. *5 of 1987, s.2.*

26. Every person who upon receiving a sum exceeding eight dollars, gives a receipt for a sum not exceeding eight dollars, or divides the amount paid into two or more receipts with intent to evade the duty, shall in every such case, be guilty of an offence against this Act, and shall be liable on conviction to a penalty of one thousand dollars. *11 of 2005, s. 12.*

Misappropriation of stamp duty. *11 of 2005, s. 13.*

26A. Any person being counsel and attorney or real estate salesman or broker for any party to an instrument or transaction who without the knowledge of that party, appropriates to his own use and benefit any monies deposited with or entrusted to him or otherwise placed under his control for the payment of stamp duty chargeable on the instrument or transaction shall be guilty of an offence against this Act and shall be liable upon conviction to a penalty of five thousand dollars or a term of imprisonment for one year and it shall be no defence to a charge brought against any such counsel, attorney or real estate salesman or broker under this section that the monies were applied in or towards settlement of his professional fees or commission instead of the payment of the applicable stamp duties.

Adjudication by Treasurer with respect to liability of instruments to stamp duty. *27 of 1971, s. 4. 11 of 2005, s. 14. 18 of 2008, s. 5.*

27. (1) The Treasurer, at the request of any person or of his own volition or at the direction of the Minister may express his opinion upon either of the following questions with reference to any executed instrument or transaction or any instrument or transaction intended to be executed or entered into, that is to say —

(a) whether the instrument or transaction is chargeable with any stamp duty;

(b) with what amount of stamp duty the instrument or transaction is chargeable.

(2) The Treasurer may require the production of the instrument or intended instrument to which the questions referred to in subsection (1) relate or a memorandum or intended memorandum of transaction as described in section 14(2) and also to be furnished with such other documents as he may deem necessary, in order to satisfy himself whether all the facts and circumstances affecting the liability of the instrument or transaction to stamp duty, *11 of 2005, s. 14.*

or the amount of the stamp duty chargeable thereon, are fully and truly disclosed.

11 of 2005, s. 14. (3) If the Treasurer is satisfied that the instrument or transaction is not chargeable with any stamp duty he shall inscribe on the instrument a written note to that effect and shall sign the note accordingly.

11 of 2005, s. 14. (4) If the Treasurer is satisfied that the instrument or transaction is chargeable with stamp duty he shall inscribe on the instrument or memorandum of transaction a written note of the amount of duty which in his opinion is chargeable thereon and shall sign the note accordingly.

11 of 2005, s. 14. (5) Every instrument or memorandum of transaction inscribed with a note as provided by subsection (3) of this section, or on which the amount of duty inscribed as provided by subsection (4) thereof has been paid, shall be admissible in evidence and shall be available for all purposes notwithstanding any objection relating to the duty payable thereon.

(6) The following provisions shall have effect with respect to the foregoing provisions of this section, that is to say —

(a) an instrument upon which the stamp duty has been assessed by the Treasurer shall not, if it is unstamped or insufficiently stamped, be stamped otherwise than in accordance with the assessment; and

(b) nothing in this section shall authorise the stamping after execution of any instrument which by law cannot be stamped after execution.

15 of 2016, s. 3. (7) Where the question referred to relates to subsection (1)(b), concerning the value of the transaction of the real property, the Treasurer shall take into consideration the transaction value stated in the instrument.

15 of 2016, s. 3. (8) Subject to subsection (7), where there is doubt as to the value of the transaction, the Treasurer, in order to determine the appropriate liability of stamp duty, may where applicable, take into consideration the value of any adjoining property sold within the preceding twelve months of the date of the transaction.

15 of 2016, s. 3. (9) Where the Treasurer is unable to take into consideration the value of any adjoining property, the Treasurer may require the parties to the instrument or

transaction to obtain an appraisal from a person who is in the opinion of the Treasurer, qualified to provide the same.

(10) Subsections (7) – (9) shall not apply in circumstances where the transaction is as a result of a foreclosure or court ordered sale. *15 of 2016 s. 3.*

Refund of stamp duty in error. *11 of 2005, s. 15.*

27A. The Treasurer, at the request of the Minister may out of the Consolidated Fund refund to a person any stamp duty paid on any instrument through mistake or inadvertence.

Appeals to Supreme Court against assessment of Treasurer. *27 of 1971, s. 4. 11 of 2005, s. 16.*

28. (1) Any person who is dissatisfied with any assessment made by the Treasurer in pursuance of the provisions of section 27 of this Act with respect to the amount of stamp duty chargeable upon an instrument or transaction may, within twenty-one days after receiving from the Treasurer the instrument duly inscribed in accordance with subsection (4) of that section and on payment of the stamp duty in conformity therewith, appeal to the Supreme Court against the assessment; and for that purpose may by notice served upon the Treasurer require the Treasurer to state and sign a case, setting forth the question upon which his opinion was required, and the assessment made by him.

(2) The Treasurer shall, within fourteen days after the service of such a notice upon him, state and sign a case and shall deliver a copy of the case to the person by whom the case is required and a further copy of the case to the Registrar of the Supreme Court; and the case may within seven days thereafter be set down by that person for hearing by the Court.

(3) Upon the hearing of the case the Supreme Court shall determine the question submitted and, if the instrument in question is, in the opinion of the Court, chargeable with any stamp duty, then the Court shall assess the amount of the stamp duty with which it is chargeable.

(4) If the Supreme Court determines that the assessment made by the Treasurer was erroneous, then any excess of stamp duty which may have been paid in conformity with the erroneous assessment, together with any surcharge which may have been paid in consequence thereof, shall be ordered by the Court to be repaid to the appellant. *11 of 2005, s. 16.*

Sale of business.
11 of 2005, s. 17.

28A. (1) Every transaction comprising the sale of any business, insofar as such sale may involve the transfer of any land or any share in a landowning company, shall be chargeable for stamp duty in like manner as a direct transfer of that land or a direct transfer of the shares in the landowning company at the rate specified in that behalf in the First Schedule.

First Schedule.

34 of 2008, Sch.

9 of 2011, Sch.

(2) Every transaction comprising the sale of any business, insofar as such sale may involve the transfer of any property other than land (save for cash or monies on deposit in any bank) shall be chargeable for stamp duty at the rate specified in that behalf in the First Schedule.

First Schedule.

Mergers.
11 of 2005, s. 17.
Ch. 308.
Ch. 309.

28B. (1) Notwithstanding anything contained in the Companies Act or the International Business Companies Act, a merger of two or more companies shall in respect of any land or business that automatically vests in any surviving company in the merger, be chargeable for stamp duty in the same amount that would have been payable if that land or business had been transferred directly to the surviving company by one or more of the other companies in the merger.

(2) No Articles of Merger relating to a merger that is chargeable for stamp duty under subsection (1) shall be accepted for record by the Registrar of Companies unless the Articles of Merger are duly stamped in accordance with this Act.

(3) The provisions of this Act relating to the imposition of stamp duties on mergers shall not apply to any merger that formally commenced prior to the commencement of this Act.

(4) The provisions of this Act relating to the imposition of stamp duties on mergers shall not apply to any company exempted from the payment of stamp duty under the International Business Companies Act.

Ch. 309.

Sale of land and connected construction contracts.
11 of 2005, s. 17.

28C. (1) In respect of every transaction in which a transfer of land is connected to the construction thereon by the vendor of that land or his affiliate of a dwelling house or other building, whether commercial or residential (including any unit in any condominium or proposed condominium) for the benefit of the purchaser of that land, the transfer and the construction contract shall together constitute a single transaction for the purposes of this Act and shall be chargeable for stamp duty based on the consideration for the transfer of the land and the consideration payable for the construction of a single family dwelling

28 of 2013, s. 3.

house, a condominium unit and the portion of an apartment building on which the owner resides, at the rate applicable to a transfer of realty as set forth in the First Schedule. First Schedule.

(2) For the purposes of subsection (1), a transfer of land shall be conclusively deemed to be connected to the construction of a single family dwelling house, a condominium unit and the portion of an apartment building on which the owner resides thereon if any instrument relating to the transfer of the land includes an agreement for such construction or any instrument relating to the sale of land is preceded by or made contemporaneously with, or followed within 12 months by a contract, written or oral or partly written and partly oral, for such construction . *28 of 2013, s.3.*

(3) Where a construction contract under this section is entered into subsequent to the stamping of any conveyance for the transfer of the land, it shall be the joint and several obligation of the parties to the construction contract to pay the stamp duty payable in respect of the consideration for the construction within sixty days from the creation of the construction contract.

(4) For the purposes of this section a person shall be deemed to be an affiliate of the vendor if, (being a corporate body) it is a parent, subsidiary, other corporate affiliate or director of the vendor or (being an individual) is a director, member, manager or employee of the vendor or, in either case, is in contractual relations with the vendor for the construction mentioned in subsection (2).

(5) ***Repealed.*** *13 of 2010, s. 6.*

(6) This section shall not apply to any construction contract executed prior to the commencement of this Act[3] or any construction contract expressly contemplated by any agreement relating to the sale of land executed prior to the commencement of this Act.

28D. The following transactions shall be chargeable for stamp duty in like manner as a direct transfer or sale of land or a business if entered into for the purpose of effecting a direct or indirect change in the beneficial ownership of any land or business — Corporate and trust transactions. *11 of 2005, s. 17.*

(a) the allotment or issuance to any person or his nominee of any shares of any class in any company such that the person to whom such shares are issued or his nominee thereby becomes enti-

[3] 1st July 2005.

tled to voting rights, dividends, or the surplus assets of the company in place of any person who previously enjoyed those rights;

(b) the variation of the rights of shareholders of a company such that the person in whose favour such rights are varied becomes entitled to dividends or the surplus assets of the company in substitution for or to the exclusion of the other shareholders;

(c) the admission to membership of any person in a company limited by guarantee whether having a share capital or not such that he becomes entitled to dividends or the surplus assets of the company in substitution for or to the exclusion of the other members;

(d) any declaration of trust under which the present owner of land or a business declares himself a trustee of that land for another person;

18 of 2008, s. 6.

(e) any purchase by a company of its own shares, any redemption or cancellation of shares, any retention of shares as treasury shares, any conversion or exchange of shares into, or for, shares or other property of any class or description, or any other action of whatsoever nature that effects or facilitates any direct or indirect increase in the overall proportions of any person's share-holdings or effective equity in a company;

Illustration

(This does not form part of this paragraph and does not extend or limit its meaning)

A and B each own 50% of the issued shares of a landowning company. B wishes to sell, and A wishes to buy, B's 50% interest in the company for one million dollars, so that A can thereby become the 100% owner of the company. Rather than agreeing to a direct sale of the shares which would, of course, attract stamp duty, A and B agree that the company will purchase B' s shares for $1 million dollars out of monies to be donated to the company by A or otherwise. It is further agreed that once the shares are acquired by the company, they will be cancelled, thereby leaving A the sole (and thus 100%) owner of the company. The final commercial result, viz a viz beneficial ownership of the company, is therefore the same as if B had sold his shares directly to A. Such a

transaction as described in the above illustration will be chargeable for stamp duty as fully as if B had sold his shares directly to A.

(f) the addition of any person to the beneficial class of a trust and the contemporaneous or subsequent removal or exclusion of the other beneficiaries of the trust such that the only person who remains beneficially interested under the trust is the person so added;

(g) any other transaction under or in relation to any trust or company resulting in any person indirectly acquiring or succeeding to the beneficial ownership of any land or business or any part thereof unless such transactions are exempted from stamp duty under any other provision of this Act. *18 of 2006, s. 6.*

Sale and transfer of time shares. *13 of 2010, s. 7.*

28E. Notwithstanding any other law, for the purposes of this Act the sale or transfer of a time share interest shall constitute a sale or transfer of land and accordingly shall be exigible to duty, at the rate applicable to a transfer of realty as set forth in the First Schedule based on the value of the time share interest.

First Schedule.

Dividends-*in-specie*. *13 of 2010, s. 7.*

28F. (1) For the purposes of this Act, a dividend-in-specie, or other transfer or vesting of the beneficial interest in property by a company to or in any of its members, shall constitute a change in beneficial ownership and accordingly shall be exigible to duty in the same manner as if such change in beneficial ownership had occurred in favour of a person who was not a member of the company.

(2) Subsection (1) shall apply whether the dividend-in-specie or other transfer or vesting of the beneficial interest in property occurs in the course of the winding-up of a company or otherwise.

(3) Nothing in subsections (1) and (2) shall apply to any instrument or transaction that is otherwise exempt from stamp duty under paragraph 30 of the Second Schedule.

Resolution of conflict between the decision of the Comptroller of VAT and the Treasurer. *17 of 2015, s.2*

28G. In the event that there is a conflict between the decision of the Comptroller of VAT and the Treasurer regarding any assessment of the amount of stamp duty chargeable upon any taxable activity in respect of any transfer of land, the matter shall be resolved by the Financial Secretary.

Deeds of gift and other voluntary transfer of property.
11 of 2005, s. 18. Second Schedule.
13 of 2010, s. 8.

29. (1) Every deed of gift or other voluntary transfer of property *inter vivos* shall be subject to stamp duty based on the value of the property in accordance with the Second Schedule.

(2) No such deed of gift or other voluntary transfer shall be deemed to be duly stamped unless the Treasurer has expressed his opinion as to the stamp duty chargeable thereon.

(3) Subsections (1) and (2) shall not apply to a conveyance or transfer made for nominal consideration for the purpose of securing the repayment of an advance or loan; or under which no beneficial interest passes in the property conveyed or transferred; or made to a beneficiary by a trustee or other person in a fiduciary under any trust, whether expressed or implied, subject as provided herein; or a disentailing assurance not limiting any new estate other than an estate in fee simple in the person disentailing the property; and this subsection shall have effect notwithstanding that the circumstances exempting the conveyance or transfer from charge under this section are not set forth in the conveyance or transfer.

Mode of calculating *ad valorem* duty in certain cases.
27 of 1971, s. 4.

30. (1) Where an instrument is chargeable with *ad valorem* duty in respect of —

(a) any money in any foreign currency; or

(b) any stock or marketable security,

the stamp duty shall be calculated on the value, on the day of the date of the instrument, of the money in Bahamian currency according to the current rate of exchange, or of the stock or security according to the average price thereof.

(2) Where an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with that statement, it shall, so far as regards the subject matter of the statement, be deemed to be duly stamped unless or until it is shown that the statement is untrue and that the instrument is in fact insufficiently stamped.

How *ad valorem* duty to be calculated in respect of stock and securities.
27 of 1971, s. 4.

31. (1) Where the consideration, or any part of the consideration, for a conveyance, assignment or transfer (in this section referred to as a conveyance) consists of any stock or marketable security, the conveyance shall be charged with *ad valorem* duty in respect of the value of the stock or security.

(2) Where the consideration, or any part of the consideration, for a conveyance consists of any security not being a marketable security, the conveyance shall be charged with *ad valorem* duty in respect of the amount due on the day of the date thereof for principal and interest upon the security.

Instruments to be separately charged with duty in certain cases.
27 of 1971, s. 4.

32. Except where express provision to the contrary is made by this or any other Act —

(a) an instrument containing or relating to several distinct matters shall be separately and distinctly charged, as if it were a separate instrument, with duty in respect of each of such matters;

(b) an instrument made for any consideration in respect of which it is chargeable with *ad valorem* duty, and also for any other valuable consideration, shall be separately charged, as if it were a separate instrument, with duty in respect of each of the considerations.

Recovery of penalties.

33. All penalties imposed by this Act shall be recovered summarily by the Treasurer or some person authorised in writing by him before a stipendiary and circuit magistrate in Nassau, or where authorised by fiat of the Attorney-General before a magistrate of the district in which the offence was committed, and shall be paid unto Her Majesty the Queen for the use and support of The Bahamas.

Rules.
E.L.A.O., 1974.

34. The Minister may make rules for carrying outthe purposes of this Act.

Impressed stamps may be used where duty exceeds five cents.
17 of 1948, s. 2
5 of 1987, Sch.

35. Notwithstanding anything in this Act contained, where the stamp duty payable in respect of any instrument under any Act exceeds the sum of five cents, such duty may be paid in money to the Treasurer, and may be denoted on such instrument by means of an impressed stamp in such manner as shall be prescribed by the rules.

Unstamped instrument may be stamped by direction of the court.

36. Where any instrument required to be issued or filed in any court is, through mistake or inadvertence, issued, filed, used or admitted in evidence without being properly stamped, the same may be stamped under the direction of the court.

Adhesive stamps to be used until impressed stamps are provided.
E.L.A.O., 1974.

37. Until the proper impressed stamps authorised by this Act shall be prepared and obtained, and until the Minister shall direct that they shall come into use, the adhesive postage stamps of The Bahamas shall be used for the purpose of denoting the duties chargeable and payable under this Act.

Power to make regulations for compounding duty.
2 of 1943, s. 2.
E.L.A.O., 1974.

38. Where the collection of duty or the stamping of instruments according to the provisions of this Act or any other Act relating to stamp duties is impracticable or inexpedient, or where such collection or stamping causes undue inconvenience to trade or business or where the exercise of the power conferred by this section is in the interest of The Bahamas, the Minister may make regulations —

(a) for the compounding of any duty; or

(b) for delivery of accounts by, and collecting duty from, the persons making or issuing the instruments upon which duty is charged.

Stamp duty on foreign currency.

39. Where any instrument is chargeable with an *ad valorem* duty in respect of any consideration expressed in any foreign currency, such duty shall be calculated upon the value of such currency as fixed by law at the time of the execution of such instrument.

Discount.
E.L.A.O., 1974
5 of 1987, s. 2.

40. The Minister may at any time authorise the Treasurer to allow a discount upon any purchase of adhesive stamps at any one time of the value of twenty dollars and upwards.

Old documents of title to land exempt from this Act.

41. Documents of title to land over thirty years old at the date of coming into operation of this Act shall be exempt from the provisions of this Act.

Expenses.

42. All expenses incurred in carrying out the provisions of this Act shall be paid out of the Consolidated Fund by warrant in the usual manner.

Land transaction of IBCs.
Ch. 309.
18 of 2008, s. 7.

43. Notwithstanding any provision of the International Business Companies Act relating to stamp duty, no International Business Company shall have any exemption from stamp duty in relation to any disposition of real property or resident business in The Bahamas that is owned, wholly or in part, by such International Business Company or any parent or subsidiary, however remote, of such International Business Company.

Extraterritorial nature of transaction.
18 of 2008, s. 7.

44. No transaction occurring outside The Bahamas, and no instrument executed or delivered outside The Bahamas, shall by virtue of that circumstance be exempt from any stamp duty that would otherwise be chargeable upon such transaction or instrument had it occurred or had been executed, as the case may be, within The Bahamas.

Associated entities dealing with sale of businesses.
18 of 2008, s. 7.
13 of 2010, s. 9.

Ch. 308.
Ch. 309.

45. (1) Where the sale of any business in The Bahamas is effected by the sale of shares or other equity by or in any privately-held parent of a company incorporated or registered under the Companies Act or the International Business Companies Act, such sale shall be treated in the same manner as if the business had been sold directly in The Bahamas and accordingly shall, as to both land in The Bahamas and property other than land, be exigible to duty.

(2) The amount owing in duty in respect of a sale described in subsection (1) shall, until such duty is actually paid, constitute a lien on the business which shall be enforceable at law against the assets comprised in the business.

(3) The reference in subsection (1) to the sale of any business in The Bahamas shall include the sale of the controlling interest in such business.

15 of 2016, s.4

FIRST SCHEDULE (Section 3)

INSTRUMENTS USED IN COMMERCIAL AND OTHER TRANSACTIONS

		Duty
1	Any agreement other than an insurance policy	Free
2	Articles of co-partnership	Free
3	Articles of clerkship	Free
4	An affidavit proving the execution of a document	Free
5	A power of attorney	Free
6	An agreement of submission to an arbitrator	Free
7	An award for payment of money	Free
8	An award other than for the payment of money	Free
9	A warrant of survey of vessel or goods	Free
10	A certificate or report of surveyors	Free
11	An assignment or transfer of personalty or realty	2 ½% of the value
12	A deed of conveyance, assignment or transfer of realty	2 ½% of the value
13	An assignment, transfer, lease, sublease or license of a marina slip	2 ½% of the value
14	A transaction comprising the sale of a business insofar as it consists of personalty (save for cash and deposit accounts)	6% of consideration attributable to personalty
15	A transaction or instrument which by virtue of the provisions of this Act is treated as if it were a transfer of land and which— (a) has the effect of transferring any of the issued shares of a company or of transferring the beneficial interest in the ownership of such shares and which would have a like effect upon the ownership of or beneficial interest in any realty in The Bahamas owned by the company to which the shares relate had the issued shares of the company represented the proportionate parts into which that ownership of or beneficial interest in the realty were divided; or (b) forms parts of a series of transactions, the cumulative effect of which upon realty is as mentioned in paragraph (a), unless the Treasurer is satisfied that the transaction is not of a series having regard to a statement to that effect endorsed on the instrument.	2 ½% of the value of interest in the realty

16	A deed of exchange of realty or personalty	2 ½% of the value
17	A deed of rectification or a confirmatory conveyance in respect of which stamp duty has already been paid on the initial conveyance and where there is no change in the parties thereto but a clerical or other error such as to the description of the property	Free
18	A lease	2 ½% of annual rent reserved
19	A transfer of a crown lease	2 ½% of the value
20	A renunciation or release of dower	Free
21	A bond for the payment of any sum of money	1%
22	A foreign currency denominated debt instrument	1,000.00
23	A bottomry bond	Free
24	A bond of indemnity or other bond not being for payment of a specific sum of money	Free
25	A hypothecation on ship or on ship and cargo, or on cargo alone	Free
26	An instrument of apprenticeship	Free
27	Subject to section 3B(5) a mortgage or transfer of mortgage of realty or personalty or both, for every $100 or fraction thereof	$1.00
28	A re-conveyance of realty or personalty or both to a borrower or mortgagor only, for every $100 or fraction thereof	.10¢
29	An endorsement or mortgage under section 32 of the Conveyancing and Law of Property Act (Ch. 138), or other satisfaction or discharge of a mortgage (including a satisfaction or discharge of a debenture), for every $100 or fraction thereof	.10¢
30	A copy of the Act, charter or other document of incorporation of a company lodged for record under the provisions of the Companies Act (Ch. 308)	$600.00
31	A memorandum of association of a company—	
	(a) limited by guarantee having no authorized capital	$100.00
	(b) formed for the promotion of objects that are religious, charitable, educational, scientific, historical, fraternal, literary, sporting, artistic or athletic	$5.00
	(c) where the capital is $500,000 or under	$100.00
	(d) where the capital is over $500,00, for every additional $100,000 or fraction thereof	$5.00

32	A resolution increasing the capital of a company incorporated within The Bahamas, for every $100,000 or fraction thereof	$5.00
33	A notarial —	
	(a) certificate or declaration	Free
	(b) protest of a Bill, note or other instrument	Free
34	A ship's —	
	(a) protest	Free
	(b) report inwards	Free
	(c) report outwards	Free
35	A promissory note, for every $50 or fraction thereof	1%
36	A charter-party	Free
37	A receipt for money for a sum exceeding $5	Free
38	A bill of exchange, draft, money order, mail transfer of money, cable transfer of money, traveler's cheque or letter of credit —	1 ½% of amount remitted or transferred out of The Bahamas
	(a) whereby funds in The Bahamas are remitted or transferred out of The Bahamas (other than remittances made by a bank or outside the said Bahamas to cover exchange sold within the said Bahamas by such bank)	
	(b) whereby funds of or over five hundred thousand dollars per annum are converted into foreign currency and are remitted or transferred out of The Bahamas to a related party where such payment represents dividends or profits or payments for services to be rendered by the related party	5% of amount remitted or transferred outside of The Bahamas
39	A bill of exchange drawn on any person outside of The Bahamas in order to effect payment for any goods exported from The Bahamas	1 ½% of amount drawn outside of The Bahamas
40	A bill of exchange, bank receipt for withdrawal from funds on deposit, cheque or order, drawn, issued, originating, paid or negotiated in The Bahamas, other than the direct debit of one payment from one bank account to another	.40¢
41	An instrument not otherwise provided for in this Schedule	Free

SECOND SCHEDULE (Section 3)

13 of 2010, s. 12.

EXEMPTIONS

7 of 1952
39 of 1958
41 of 1958
25 of 1963
25 of 1972
2 of 1976
14 of 1976
30 of 1989 s. 5
16 of 1990, s. 9
7 of 1993, s. 6
37 of 1992, s. 4
11 of 1994, s. 9
13 of 1999, s. 5
31 of 2000, s. 2
11 of 2004, s. 2
11 of 2005, s. 20
11 of 2008, s. 2
16 of 2008, Sch.
18 of 2008, s.9

Item	Exemption
1	Bank, Board of Trade or Government notes, bills of exchange, drafts, cheques or orders for payment of money issued by the Inspector of Imperial Lighthouses, the Treasurer or by any other public officer in his official capacity or by any public Board.
2	Grants, leases, writs or other instruments issued by and on behalf of the Crown and The Bahamas.
3	Receipts given by any officer or soldier of Her Majesty's forces stationed within The Bahamas for money received by him out of Imperial Revenue.
4	Instruments relating to a gift or voluntary disposition of property, where the transfer or other disposition of such property would otherwise be exigible to stamp duty, by an individual to — (1) a company all of whose shares of every class are beneficially owned by the transferor and in relation to which no other person owns or has agreed to acquire any right, power, title, option or other interest in, over or concerning — (i) the shares; (ii) any of the property of the company; or (iii) any of the property of the transferor;

(2) trustees upon trust where the express and unalterable terms of the trust instrument permanently excludes from taking or receiving any title to the trust property or income, or any power, right or benefit pertaining to the trust, every person except for —

(i) the transferor;

(ii) the transferor's spouse;

(iii) the transferor's children or remoter issue.

5 Receipts given on behalf of the Crown or The Bahamas by the Treasurer or any other public officer.

6 Receipts given by any public officer or employee of the Government for money received by him as salary or wages.

7 Bonds, debentures and all other obligations whatsoever whether under seal or under hand only given by the Government to secure the repayment of money.

8 Bail bonds in criminal cases.

	Item	**Exemption**
7 of 1952, s. 7.	9	Instruments relating to the acquisition of real or personal property by any State with which the Government of Great Britain and Northern Ireland has concluded a consular convention for the purposes of a consular office or residence for a consular officer or employee or for any other purpose approved by the Governor-General arising out of the operation of a consular establishment, and receipts given by consular officers for money received for consular services.
39 of 1958, s. 3.	10	Instruments relating to the remittance or transfer from The Bahamas to any place outside The Bahamas of any funds arising out of the operation of a consular establishment by a consular officer or employee.
25 of 1972, s. 2.	11	Insurance Policies.
11 of 2004, s. 2. Ch. 308.	12	Import entries in respect of all goods imported by charitable organisations approved by the Minister (not including non-profit companies registered under the Companies Act).
11 of 2004 s. 2. *13 of 2010, s. 12.*	13	Import entries in respect of wine normally used by churches in the conduct of communion or equivalent services.
11 of 2005, s. 20.	14	Instruments relating to a transfer operating as a voluntary disposition of property to a body of persons incorporated by a special Act, if that body is by its Act precluded from dividing any profit among its members and the property conveyed is to be held for the public benefit.

Item	Exemption	
15	Instruments relating to a transfer of property between two or more companies that are constituent members of the same group of companies and under the ultimate ownership of the same person if no part of the consideration for such transfer is payable to any person that is not a constituent member of the same group of companies; the ultimate ownership aforesaid remains unchanged; and no person (other than the transferee and a pre-existing member of the same group of companies) acquires any interest in the property.	*11 of 2005, s. 20.*
16	Instruments relating to a transfer of property that does not result in a change of beneficial ownership.	*11 of 2005, s. 20.*
17	Instruments relating to the vesting of property in any beneficiary under a trust subject as hereinbefore provided.	*11 of 2005, s. 20.*
18	Instruments relating to the transmission of property upon the death or bankruptcy of the owner of such property to his personal representatives or trustee-in-bankruptcy, as the case may be.	*11 of 2005, s. 20.*
19	Instruments relating to the vesting of any property in any person by virtue of any statutory or common law entitlement save for a merger.	*11 of 2005, s. 20.*
20	Instruments relating to the acquisition by a company of its own shares or any redemption of shares under the Companies Act or the International Business Companies Act except where such acquisition or redemption is intended or calculated to effect or facilitate a change in beneficial ownership or any direct or indirect increase in the overall proportions of any person's share-holding or effective equity in a company.	*11 of 2005, s. 20.* *18 of 2008, s. 9.* Ch. 308. Ch. 309.

	Item	Exemption
11 of 2005, s. 20.	21	Deeds of gift of land from one exclusively charitable, religious or non profit institution or body to another such institution or body.
11 of 2005, s. 20. Ch. 125.	22	Instruments relating to any property transfer made pursuant to an adjustment order under the Matrimonial Causes Act.
49 of 2015	23	Instruments in relation to a transaction or activity falling within the meaning of subsections 31(2) or (3) of the Electricity Rate Reduction Bond Act, 2015