

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE LAND HOLDING COMPANIES
SHARE TRANSFER TAX LAW (2003 REVISION) WITH RESPECT TO
RATES OF TAX IMPOSED BY THAT LAW ON TRANSFERS OF
EQUITY CAPITAL; AND FOR INCIDENTAL AND CONNECTED
PURPOSES**

**THE LAND HOLDING COMPANIES SHARE TRANSFER TAX
(AMENDMENT) BILL, 2006**

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to amend the Land Holding Companies Share Transfer Tax Law (2003 Revision) to vary the rate of tax payable on transfers of equity capital under that Law.

Clause 1 states the short title of the Bill and provides for its commencement on 1st July, 2006.

Clause 2 amends section 2 of the principal Law so as to dispense with the definition of “market value” that is currently used for tax assessment and replace it with a definition more widely used for valuation purposes.

Clause 3 amends section 3 of the principal Law so as –

- (a) to reduce from nine per cent to seven and one-half per cent the rate of tax payable on a transfer of equity capital in a corporation most of whose equity is attributable to landholdings situated in the zone comprising the sections, blocks and parcels listed under subsection (1) (c) (i) of that section;
- (b) to make it clear, for tax assessment purposes, that where a corporation has land holdings situated within block 12C at West Bay, only parcels that have water frontage, or that are derived from a parcel having water frontage, are taken to be included in the high rate zone; and
- (c) to reduce the rate of tax payable on other transfers from seven and one-half per cent –
 - (i) to four per cent, if the transferee has Caymanian status; or
 - (ii) to six per cent, if the transferee does not have Caymanian status.

Clause 4 amends section 4 of the principal Law so as to enable the Financial Secretary to exempt a land holding corporation from some, but not all, of the requirements of section 3 of the principal Law.

Clause 5 makes an amendment to section 5 of the principal Law as a consequence of the amendment made to section 4.

Clause 6 amends section 7 of the principal Law so as to provide for interest to be payable on the unpaid balance of any amount payable under section 3.

Clause 7 contains transitional provisions concerning the application of new provisions relating to interest on late payment of tax and the exempt status of approved land holding corporations.

Clause 8 validates the practice of charging tax under the principal Law at a reduced rate (five per cent of taxable value) during the period 14th November, 2002 to 30th June, 2006.

**THE LAND HOLDING COMPANIES SHARE TRANSFER TAX
(AMENDMENT) BILL, 2006
ARRANGEMENT OF CLAUSES**

1. Short title and commencement
2. Amendment of section 2 of the principal Law – definitions
3. Amendment of section 3 – returns, etc., of transfers to be delivered and tax payable
4. Amendment of section 4 – transfers between trustees, etc.
5. Amendment of section 5 – approved land holding corporations
6. Amendment of section 7 – offence of neglecting to make return, etc.
7. Transitional provisions
8. Validation

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ENACTED by the Legislature of the Cayman Islands.

1. (1) This Law may be cited as the Land Holding Companies Share Transfer Tax (Amendment) Law, 2006. Short title and commencement
- (2) This Law shall come into operation on 1st July, 2006.
2. The Land Holding Companies Share Transfer Tax Law (2003 Revision), in this Law referred to as the “principal Law”, is amended in section 2 – Amendment of section 2 of the principal Law – definitions
 - (a) by deleting the definition of “market value” and substituting the following definition –

““market value”, in relation to landed property, means the estimated amount for which the property should exchange on the date of valuation between a willing buyer and a willing seller in an arm’s-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion;”;

- (b) by deleting the definitions of “might be expected to realise” and “willing seller”; and
- (c) by inserting in appropriate alphabetical order the following definition –
 - “taxable value”, in relation to a transfer, means the estimated amount for which the transferred equity capital should exchange on the date of valuation between a willing buyer and a willing seller in an arm’s-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion;”;

Amendment of section 3 – returns, etc., of transfers to be delivered and tax payable

3. The principal Law is amended in section 3 –

- (a) by deleting the words “nine per centum of the taxable value of such transfer” from subsection (1) (c) (i) and substituting the words “seven and one-half per centum of the consideration for, or of the taxable value of, the transfer (whichever is the greater)”;
- (b) by inserting after “12C” in the table of sections, blocks and parcels following subsection (1) (c) (i) the words “(parcels with water frontage only, but including any parcel subsequently derived from another parcel with water frontage existing at the 1st July, 2006)”;
- (c) by deleting subsection (1) (c) (ii) and substituting the following subparagraph –
 - “(ii) equivalent to –
 - (A) four per centum of the taxable value of such transfer, if the transferee is a Caymanian; or
 - (B) six per centum of the taxable value of such transfer, if the transferee is not a Caymanian, in the case where fifty per centum or more of the market value of the landed property of the landed corporation is situate in areas not specified in subparagraph (i).”;
- (d) by inserting after subsection (1) the following subsection –
 - “(1A) For the purposes of subsection (1) (c) (ii), “Caymanian” means a person with Caymanian status under the Immigration Law, 2003.”.

Law 34 of 2003

4. The principal Law is amended by repealing section 4 and substituting the following section –

Amendment of section 4 – transfers between trustees, etc.

“Transfers between trustees, etc.

4. (1) Section 3 does not apply to –
- (a) a transfer effected as a result of a distribution of property by personal representatives acting in that capacity;
 - (b) a transfer effected as a result of the distribution of the estate of a bankrupt;
 - (c) a transfer between trustees or nominees which effects no change in beneficial ownership; or
 - (d) a transfer for natural love and affection –
 - (i) between parents and children or between spouses; or
 - (ii) between children born of the same parent, or between grandparents and grandchildren, where the transfer has been certified by the Financial Secretary to be a transfer in respect of which he is satisfied that the provisions of this section may properly apply.
- (2) Section 3 does not apply to a transfer effected as a result of the order of a court, unless the court otherwise directs.
- (3) To the extent specified in the approval, section 3 does not apply to a landholding company approved by the Financial Secretary under section 5.”

5. The principal Law is amended in section 5 by deleting “4(e)” from subsection (1) and substituting “4(3)”.

Amendment of section 5 – approved land holding corporations

6. The principal Law is amended in section 7 by renumbering the section as section 7 (1) and inserting at the end of it the following subsection –

Amendment of section 7 – offence of neglecting to make return, etc.

“(2) In addition to any liability to a penalty under subsection (1), where any sum required to be paid under section 3 is not fully paid by the due date, the corporation concerned shall be liable to pay interest at the rate of ten per centum per annum for the first month or part of a month and thereafter at the rate of twenty per centum per annum upon the amount for the time being remaining unpaid.”.

The Land Holding Companies Share Transfer Tax (Amendment) Bill, 2006

Transitional provisions 7. (1) Section 7(2) of the principal Law, as amended by this Law, shall apply to any sum that was due, under section 3 of the principal Law, to be paid by a date earlier than 1st July, 2006 as though the due date for its payment were 1st July, 2006.

(2) Subject to subsection (3), a corporation that, on 30th June, 2006, was an approved land holding company for the purposes of section 4(e) of the principal Law shall, on and from 1st July, 2006, be deemed to have been approved for the purposes of section 4(3) of the principal Law, as amended by this Law.

(3) The Financial Secretary may, by notice in writing served on a corporation referred to in subsection (2), specify the extent to which section 3 of the principal Law shall apply to the corporation, and the provisions of that section shall, on and from receipt by the corporation of the notice, apply to the corporation accordingly.

Validation 8. (1) This section applies to a liability incurred by a land holding corporation under section 3 of the principal Law in respect of a transaction effected during the period commencing on 14th November, 2002 and ending on 30th June, 2006.

(2) An assessment of the amount of tax payable in discharge of a liability to which this section applies that would have been valid if the Land Holding Companies Share Transfer Tax (Amendment) (Temporary Provisions) Law, 2001 had been in force during and in respect of the period referred to in subsection (1) is hereby validated, and a payment in accordance with such an assessment shall be deemed to have discharged the liability concerned.

Passed by the Legislative Assembly the _____ day of _____, 2006.

Speaker.

Clerk of the Legislative Assembly.