

CHARGE OF STAMP DUTY ON TRANSFERS MADE PURSUANT TO COURT ORDERS

In our ongoing effort to ensure compliance with the Stamp Duty Act (2019 Revision), we have identified a need to clarify our approach to the collection of stamp duty on transfers of land pursuant to court orders, including orders made in divorce proceedings. This clarification aims to ensure that our practices align with the legal framework and to ensure equitable treatment of all transactions.

Section 3(1) of the Act provides that:

“There shall be charged for the revenue of the islands stamp duties upon the instruments specified in the Schedule at the rates therein prescribed”.

Under the heading CONVEYANCE OR TRANSFER of any immovable property, stamp duty is payable at the rate of 7.5% of the consideration for transfers falling within paragraphs (1) and (2).

Paragraph (3) then provides that for the purpose of this head duty, *“the consideration shall be deemed to be the consideration recited in the instrument effecting the conveyance or transfer or the market value of the property conveyed or transferred, whichever is higher”*.

Accordingly, any conveyances or transfers of immovable property which are being transferred pursuant to a court order are chargeable for stamp duty determined on the basis of paragraphs (1)-(8) and (10) of the Schedule, as applicable.

Transfers pursuant to a court order will be evaluated to ensure they satisfy the requirements of Section 3 (1) of the Stamp Duty Act. This includes transfers pursuant to a court order made in dissolution of marriage (divorce) proceedings.

In cases of divorce, the stamp duty will be calculated based on the market value of the property being transferred, or the consideration stated in the transfer document, whichever is higher. This ensures a fair and consistent approach in line with the Schedule of the Stamp Duty Act.

When does this advisory note come into effect?

This advisory note will be applied to any documents presented on or after, 1st March, 2024.

Where can you address any queries?

You may contact the Chief Valuation Officer at the Lands and Survey Department, Box 120, 133 Elgin Avenue, George Town, Grand Cayman KY1-9000, Tel 244 3420 or email us at LV@gov.ky



CHIEF VALUATION OFFICER

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