

Stamp Duty Amendment & the New Real Estate VAT Rule

In January, 2015 The Government of The Bahamas implemented Value Added Tax (“VAT”) at 7.5% to be charged on all goods and services. This new VAT tax affected many businesses, as businesses were required to update their computer systems in order to implement VAT in compliance with the new law. Food stores and other stores selling goods were not the only businesses that were affected, but also those businesses providing services. Law firms were affected and were forced to increase their fees. Six months later, it appears that this 7.5% was not sufficient for the Government as it relates to real estate transactions. When one is selling or buying property one must consider the additional costs of VAT associated with the transaction as VAT is charged on the appraisal report, legal fees, search fees and now on the consideration or appraised value of the property (which ever is accepted and approved by the Controller of VAT).

This new VAT Rule on Real Estate was implemented by The Ministry of Finance (VAT Department), which will apply from the 1st July, 2015 to the 31st October, 2015. Rule D, 1 of this rule states that:

“Value Added Tax is chargeable on all conveyances of real property valued by the Controller of Value Added Tax at more than one hundred thousand dollars at the time of stamping and is payable at the time the conveyance is required to be registered and stamped at the Department of Inland Revenue in accordance with the Stamp Act.”

First time home buyers that are exempted from paying stamp duty will also be exempted from paying VAT on the conveyance under the new Rule.

This has lead to some confusion.

Buyers are now confused and are of the belief that they would be required to pay 10% Stamp Duty and also 7.5% VAT on the market value of the property over \$100,000.00. This is not so, the Stamp Duty Act has amended the rate of Stamp Duty to 2.5% across the board. Therefore, buyers and sellers of properties valued under \$100,000.00 are only required to pay 2.5% Stamp

Duty. However, in addition to the 2.5% Stamp Duty, 7.5% VAT must be paid when the consideration of the

Instrument Consideration	Old Percentage Rate	Current Percentage Rate	VAT Rate
Does not exceed \$20,000.00	4%	2.5%	N/A
Exceeds \$20,000.00 and does not exceed \$50,000.00	6%	2.5%	N/A
Exceeds \$50,000.00 and does not exceed \$100,000.00	8%	2.5%	N/A
Exceeds \$100,000.00	10%	2.5%	7.5%

property is more than \$100,000.00. The table below outlines the old and new Stamp Duty Rates as well as the VAT rate.

The difficulty with these amendments arises when it comes to the division of the 7.5% VAT. Who is responsible for paying this tax? Although there are no provisions regarding the division of stamp duty in the Stamp Duty Act, in practice Stamp Duty is normally paid in equal parts by the seller and the buyer unless otherwise agreed. Therefore, VAT should also be divided equally between the seller and the buyer.

The VAT payable on a conveyance must be paid to the VAT Controller and thereafter taken to the Public Treasury for the payment of Stamp Duty. If the VAT Controller is not satisfied with the consideration amount, one must produce the Appraisal Report that contains the true market value, which is normally done when stamping documents at the Public Treasury.

The information stated above is not intended to be construed as legal advice in anyway. Should you require specific guidance regarding same, you are advised to obtain legal advice.

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