

The Land (Duties and Taxes) Act

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LAND (DUTIES AND TAXES) ACT

Act 46 of 1984 – 16 July 1984

Amended GN 140/11; GN 149/11; 20/11; 37/11; GN 236/11; GN 42/12 (cio 31/3/2012); 26/12 (cio 22/12/12); 1/13 (cio 18/4/13); GN 118/13 (cio 18/4/13); GN 172/13 (cio 1/7/13) [Amended Act 26 of 2013]; GN 162 of 2014 cio 23 August 2014; GN 49 of 2015 (cio 5/4/2015)

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LAND (DUTIES AND TAXES) ACT

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Land (Duties and Taxes) Act.

2. Interpretation

In this Act—

“Committee” means the Assessment Review Committee set up under section 18 of the Mauritius Revenue Authority Act;

“company” –

(a) means a company incorporated, or a foreign company registered, under the Companies Act; and

(b) includes any successive company or *société* or successive *société*;

[Inserted 26/12 (cio 22/12/12).]

“consideration” means value in money or money’s worth;

“deed” means any notarial deed, judgment of a Court, agreement or any other document;

“deed of transfer” –

(a) means –

(i) an authentic deed (*acte authentique*) witnessing the transfer of immovable property with or without consideration or by way of donation;

(ii) a deed witnessing the transfer of shares in a company or issue of shares by a company or the transfer of *part sociale* in a *société* which gives right of ownership, occupation or usage of an immovable property; or

(iii) a deed witnessing the transfer of property, other than immovable property, with or without consideration;

[Repealed and replaced 26/12 (cio 22/12/12).]

- (b) includes a deed witnessing a compulsory acquisition under the Land Acquisition Act;

[Amended 26/12 (cio 22/12/12).]

- (c) includes a deed (“*acte de désintéressement*”) by which a partner withdraws from a partnership without taking back the property (“*apport*”) which he originally brought into the partnership;

[Amended 26/12 (cio 22/12/12).]

- (d) includes a deed witnessing that property owned by a company is, on the winding up, liquidation or dissolution of the company or in any other manner, attributed to a shareholder of the company, irrespective of the date on which such attribution takes place;

[Amended 26/12 (cio 22/12/12).]

- (e) includes a deed witnessing that property brought by way of an *apport* by a partner in a partnership either prior to its constitution and registration or thereafter is, on dissolution of the partnership or in any other manner, attributed to any person other than the one who brought that property into the partnership;

[Amended 26/12 (cio 22/12/12).]

- (f) includes a deed by which a purchaser of any property declares that he has purchased the property on behalf of another person and in the name of that person with money belonging to and provided by that person;

[Amended 26/12 (cio 22/12/12).]

- (g) includes an instrument witnessing the distribution of a trust property by a trustee under the terms of a trust to a beneficiary other than a distribution to a beneficiary who is a heir or successor of the settlor;

[Amended 26/12 (cio 22/12/12).]

- (h) includes a deed witnessing the transfer of an immovable property by way of *constatation par acte authentique de l'achèvement de l'immeuble* referred to in article 1601-2, or by way of a *vente en l'état futur d'achèvement* under article 1601-3, of the Code Civil Mauricien;

[Amended 26/12 (cio 22/12/12).]

- (i) includes a deed by which a partner withdraws (*se désintéresse*) from a partnership owning property, or entitled to property either directly or indirectly by the constitution of successive partnerships which another partner previously joined;

[Amended 26/12 (cio 22/12/12).]

- (j) includes a deed witnessing that property acquired by a partnership either prior to its constitution and registration or thereafter is, on dissolution of the partnership or in any other manner, attributed to a person who became a partner of the partnership after the date of such acquisition unless that person has already paid tax under this Act and duty under the Registration Duty Act when he became partner in the partnership;

[Amended 26/12 (cio 22/12/12).]

- (k) includes a transaction under article 2044 of the Code Civil Mauricien where property other than that in dispute is transferred;

[Amended 26/12 (cio 22/12/12).]

- (l) includes a deed witnessing the transfer of an immovable property to a company holding a letter of approval for the implementation of a project under the Real Estate Development Scheme prescribed under the Investment Promotion Act, where the transferor holds shares in the company, the value of which is less than the value of the immovable property transferred;

[Amended 26/12 (cio 22/12/12).]

- (m) includes a deed witnessing the transfer of shares or successive transfers of shares in a company which owns—

[Amended 26/12 (cio 22/12/12).]

- (i) any freehold or leasehold immovable property; or
- (ii) any shares in any other company or successive company which reckons amongst its assets such property,

which results in a change of control of that company or any increase in shareholding of the controlling shareholder within a period of 12 months from the date of the change of control.

For the purposes of this paragraph—

- (i) “company” has the meaning assigned to it in section 24 (1) of the Registration Duty Act;
- (ii) “control” has the meaning assigned to it in section 5 of the Companies Act and includes control by a shareholder who is an individual or a société;

[Amended 1/13 (cio 18/4/13).]

- (iii) “transfer of shares” includes any transfer of shares in a company or any issue of new shares or conversion of debentures into shares by a company to any person which results in a change of control of that company;

[Inserted 26/12 (cio 22/12/12).]

- (n) a Certificate of Transfer of Undertaking issued under section 346A of the Companies Act.

[Inserted 1/13 (cio 18/4/13).]

“document” has the same meaning as in the Registration Duty Act;

“financial year” means the period of 12 months ending on 30 June in any year;

“Minister” means the Minister to whom responsibility for the subject of finance is assigned;

“notarial deed” has the same meaning as in the Registration Duty Act;

“open market value” means the value which a property might reasonably be expected to realise if sold on the open market by a prudent vendor;

“property”—

- (a) means any freehold or leasehold immovable property or any right or interest in any freehold or leasehold immovable property;

(b) includes—

- (i) any share in a partnership which owns any freehold or leasehold immovable property, any right or interest in any freehold or leasehold immovable property, any share in a partnership which itself reckons directly among its assets any freehold or leasehold immovable property or any right or interest in any freehold or leasehold immovable property or is indirectly entitled by the constitution of successive partnerships to such property;

- (ii) any freehold or leasehold immovable property brought into a partnership by a person who withdraws (*se désintéresse*) from the partnership without taking back the property (*apport*) which he originally brought into the partnership;
- (iii) any freehold or leasehold immovable property owned by a company which is attributed, on winding up, liquidation or dissolution of the company or in any other manner, to a shareholder of the company;
- (iv) any freehold or leasehold immovable property brought by way of an *apport* by a partner in a partnership either prior to its constitution and registration or thereafter is, on dissolution of the partnership or in any other manner, attributed to any person other than the one who brought that property into the partnership;
- (v) property transferred to a company holding a letter of approval for the implementation of a project under the Real Estate Development Scheme prescribed under the Investment Promotion Act, in respect of the difference in value of the property transferred and the value of the shares held in the company holding such letter of approval;
- (vi) any freehold or leasehold immovable property distributed by a trustee under the terms of a trust to any beneficiary of that trust;
- (vii) any transfer of shares in a company or issue of shares by a company or transfer of *part sociale* in a *société* which gives right of ownership, occupation or usage of an immovable property or any part thereof;

[Inserted 26/12 (cio 22/12/12).]

- (viii) any property subject of a transfer under section 32A of the Banking Act;

[Inserted 1/13 (cio 18/4/13).]

“*société*” –

- (a) means a *société commerciale* or *société civile* which is required to be *immatriculée* with the Registrar of Companies under article 1841 of the Code Civil Mauricien; and
- (b) includes any successive *société* or company or successive company;

[Inserted 26/12 (cio 22/12/12).]

“stated amount” means the amount specified in a notice served by the Registrar-General under section 28;

“tax”—

- (a) means the tax payable under Parts III, V, VI and VIA; and
- (b) includes any surcharge on tax and penalty or interest imposed under this Act;

“transaction” means any operation creating, transferring or extinguishing a right of obligation;

“transferor” includes—

- (a) the lessee of an immovable property;
- (b) in the case of an exchange, any party who transfers property;
- (c) in the case of a dissolution of a partnership, the party who brought the property into the partnership or his heirs and assigns;
- (d) in the case of any person withdrawing as a partner from a partnership, the person who so withdraws (*se désintéresse*) without taking back the property which he originally brought into the partnership;
- (e) in the case of a company, the property of which is, on winding up, liquidation or dissolution or in any other manner, attributed to any of its shareholders;
- (f) the purchaser of any property who declares that he has purchased the property on behalf of another person with money belonging to and provided by that person;
- (g) in the case of a distribution of a property by a trustee to a beneficiary under the terms of a trust other than a distribution to a beneficiary who is a heir or successor of the settlor, the settlor;
- (h) the partner who withdraws (*se désintéresse*) from a partnership owning property, which another partner previously joined;
- (i) in the case of a deed witnessing that property acquired by a partnership either prior to its constitution and registration or thereafter is, on dissolution of the partnership or in any other manner, attributed to a person who became a partner of the partnership after the date of such acquisition, the partnership;

- (j) in the case of a transfer of shares in a company or issue of shares by a company or transfer of *part sociale* in a *société* which gives right of ownership, occupation or usage of an immovable property or any part thereof, the company or *société*, as the case may be;

[Inserted 26/12 (cio 22/12/12).]

- (k) a transferor bank under section 32A of the Banking Act.

[Inserted 1/13 (cio 18/4/13).]

“valuer”—

- (a) means a Government Valuer or a valuer designated by the Registrar-General;
- (b) includes any person authorised in writing by the valuer.

[EDITORIAL NOTE: The amendments to these definitions by section 11 of Act 18 of 1999 do not, by virtue of section 15 (f) of Act 25 of 2000, apply to a partnership formed before 1 August 1999.]

[S. 2 amended by s. 4 (a) of Act 4 of 1987 cio. 11 November 1987; s. 3 of Act 20 of 1988 cio. 16 July 1988; s. 7 (a) of Act 22 of 1989 cio. 1 July 1989; s. 5 (a) of Act 30 of 1990 cio. 1 July 1990; s. 4 (1) of Act 17 of 1991 cio. 1 July 1991; s. 11 (a) of Act 23 of 1992 cio. 1 July 1992; s. 3 of Act 23 of 1993 cio. 1 November 1993; s. 4(a) of Act 17 of 1995 cio. 12 August 1995; s. 10 of Act 13 of 1996 cio. 1 July 1996; s. 5 (a) of Act 9 of 1997 cio. 1 July 1997; s. 11 (a) of Act 18 of 1999 cio. 1 July 1999; s. 72 (3) (a) of Act 14 of 2001 cio. 1 December 2001; s. 14 (a) of Act 23 of 2001 cio. 11 August 2001; s. 17 (a) of Act 20 of 2002 cio. 10 August 2002; s. 12 (a) of Act 28 of 2004 cio. 26 August 2004; s. 27 (12) (a) of Act 33 of 2004 cio. 1 July 2006; s. 19 (a) of Act 15 of 2006 cio. 7 August 2006; s. 19 (a) of Act 17 of 2007 cio. 7 August 2007; s. 18 of Act 18 of 2008 cio. 19 July 2008; s. 24 (a) of Act 14 of 2009 cio. 30 July 2009; s. 13 (a) of Act 20 of 2009 cio. 19 December 2009; s. 14 of Act 26 of 2012 cio. 22 December 2012; s. 7(2) of Act 1 of 2013 cio. 18 April 2013.]

PART I A – AUTHENTIC DEED

2A. Deed in respect of immovable property

- (1) Where –
- (a) a deed, other than a judgment of a Court; or
 - (b) a deed of transfer or document,
- witnesses a transfer of immovable property, such deed, deed of transfer or document shall be drawn up by an authentic deed (*acte authentique*).
- (2) Where the consideration for which a share is issued takes the form of real property under section 56(2) of the Companies Act, the deed witnessing such transfer shall be in the form of an authentic deed (*acte authentique*).

[Part IA inserted by s.14 of Act 26 of 2012 cio. 22 December 2012.]

PART II – REGISTRATION DUTY

3. Duty leviable

(1) Notwithstanding any other enactment but subject to this Act, there shall be levied, on the registration of any deed witnessing a transfer of property irrespective of the date on which the transfer takes place or creating a mortgage or a fixed charge (*sûreté fixe*), the duty on the value of the property at the time of registration, at the rate in force at the time of registration, in accordance with the Registration Duty Act.

[Amended 20/11 (cio 16/07/11).]

(2) —

[S. 3 amended by s. 4 (2) of Act 17 of 1991 cio. 1 July 1991; s. 3 (a) of Act 25 of 1994 cio. 27 July 1994; s. 11 (b) of Act 18 of 1999 cio. 1 August 1999; s. 15 (a) of Act 25 of 2000 cio. 11 August 2000; s. 12 (b) of Act 28 of 2004 cio. 26 August 2004; s. 19 (b) of Act 15 of 2006 cio. 7 August 2006; s. 16 of Act 20 of 2011 cio. 16 July 2011.]

PART III – LAND TRANSFER TAX

4. Levy of land transfer tax

- (1) Subject to subsections (2), (3), (4) and (5), there shall be levied on the registration of a deed of transfer or a deed witnessing the transfer of property, a tax, to be known as land transfer tax, on—
- (a) the value of any property transferred;
 - (b) the value of any property allocated on the dissolution of a partnership or in any other manner to any person other than the one who brought the property into the partnership;
 - (c) where the property transferred is a share in a partnership or successive partnerships, the value of any freehold or leasehold immovable property comprised in the assets of the partnership or successive partnerships calculated in accordance with the First Schedule;
 - (ca) where the property transferred is a share in a company or successive companies, the value of the shares transferred where the transfer of the shares results in a change of control or any increase in shareholding of the controlling shareholder within a period of 12 months from the date of the change of control;
 - (d) in the case of the distribution of property by a trustee to a beneficiary under the terms of the trust, the value of the property so distributed;
 - (e) in the case of a transfer—
 - (i) following the *vente à terme* under article 1601-2 of the Code Civil Mauricien, the consideration stated in the deed; or
 - (ii) by way of a *vente en l'état futur d'achèvement* under article 1601-3 of the Code Civil Mauricien, the consideration stated in the deed together with the value of the *immeuble à l'achèvement*;

- (f) in the case of the withdrawal (*désintéressement*) of a partner from a partnership which another partner previously joined, the value of any freehold or leasehold immovable property comprised in the assets of the partnership calculated in accordance with the First Schedule;
 - (g) in the case of the withdrawal (*désintéressement*) of a partner from a partnership which another partner previously joined and which is entitled to shares, whether directly or indirectly, by the constitution of successive partnerships, in another partnership, the value of any freehold or leasehold immovable property comprised in the assets of that other partnership calculated in accordance with the First Schedule;
 - (h) in the case where an immovable property is transferred to a company and the transferor holds shares in the company the value of which is less than the value of the immovable property transferred, the difference between the value of the immovable property transferred and the value of the shares held by the transferor in the company;
- [Amended 26/12 (cio 22/12/12).]
- (i) in the case where there is a transfer of shares in a company or issue of shares by a company or transfer of *part sociale* in a *société* which gives right of ownership, occupation or usage in an immovable property or any part thereof, the value of the immovable property or any part thereof.

[Inserted 26/12 (cio 22/12/12).]

- (1A) (a) Land transfer tax shall be levied on the registration of a deed of transfer witnessing a transfer of shares, referred to in paragraph (1) of the definition of “deed of transfer”, at the appropriate rate specified in Part B of the Second Schedule—
 - (i) on the value of the shares transferred; or
 - (ii) at the option of the transferor and transferee jointly, in such proportion as the number of shares transferred bears to the total number of shares issued by the company, without taking into account the number of shares, if any, issued to the transferee during the period of 3 years immediately preceding the date of transfer, on the open market value of the immovable property comprised in the assets of the company or on the value of the shares transferred, whichever is the lower.

- (b) For the purposes of paragraph (a), where the value of the shares transferred exceeds 200,000 rupees, the transferor shall submit a certificate from a professional accountant as to the value of the shares transferred.
- (1B) Where the open market value of the immovable property excluding the value of any building thereon exceeds 50 million rupees, subsection (1A) (b) shall apply and land transfer tax shall be levied at the appropriate rate specified in Part B of the Second Schedule.
- (2) Where a person withdraws from a partnership as a partner without taking back any property which he originally brought into the partnership (*apport*), the deed witnessing his withdrawal (*acte de désintéressement*) shall be deemed to constitute sufficient evidence for the purposes of subsection (1) that he has transferred the property to the partnership on the date on which the withdrawal takes place.
- (3) Notwithstanding any other enactment—
- (a) where property owned by a company is attributed on winding up, liquidation or dissolution of the company or in any other manner, to any of its shareholders;
 - (b) where property brought into a partnership by way of an *apport* by any of its partners either prior to its constitution and registration or thereafter, is attributed, on its dissolution or in any other manner, to any person other than the one who brought the property into the partnership;
 - (c) where property acquired by a partnership either prior to its constitution and registration or thereafter is, on dissolution of the partnership or in any other manner, attributed to a person who joined the partnership after the date of such acquisition;
 - (d) where a partner withdraws (*se désintéresse*) from a partnership owning property, which another partner previously joined;
 - (e) where a partner withdraws (*se désintéresse*) from a partnership which another partner previously joined and which is entitled to shares, whether directly or indirectly, by the constitution of successive partnerships, in another partnership;

- (f) where property is distributed by a trustee under the terms of a trust to any beneficiary of that trust, the deed witnessing such attribution, withdrawal or distribution shall be deemed to constitute sufficient evidence for the purposes of subsection (1) that the property owned by the company, partnership or trust has been duly transferred to that shareholder, other partner, partner that previously joined the partnership or beneficiary, as the case may be, irrespective of the date on which the attribution, withdrawal or distribution takes place.
- (4) The tax shall be—
- (a) paid by the transferor;
 - (b) at the rate specified in the Second Schedule.
- (4A) (a) Where a person sells a property, he shall make in the deed a declaration of any sale made by him in the 3 years immediately preceding the present sale and the value of the property sold excluding the value of any building thereon.
- (b) Where the aggregate value of the property sold during the 3-year period referred to in paragraph (a) exceeds 50 million rupees, he shall, subject to subsection (6), pay land transfer tax at the appropriate rate specified in Part A of the Second Schedule.
 - (c) For the purpose of paragraph (b), the aggregate value of the property shall not include the value of any building existing thereon.
 - (d) This subsection shall apply only to sales of property effected on or after its coming into operation.
- (5) —
- (6) Where the transfer is made by way of—
- (a) a *vente à terme* under article 1601-2 of the Code Civil Mauricien by a company holding an investment certificate in respect of a project under the Real Estate Development Scheme prescribed under the Investment Promotion Act; or
 - (b) a *vente en l'état futur d'achèvement* under article 1601-3 of the Code Civil Mauricien, the rate shall, notwithstanding subsection (4), be 5 per cent.

- (6A) Where the transfer under the Real Estate Development Scheme prescribed under the Investment Promotion Act is made in accordance with subsection (6) (b), the land transfer tax leviable on the transfer may be paid in 4 consecutive equal 6-monthly instalments, the first instalment being payable at the time of registration of the deed of transfer.
- (6B) where payment is made in accordance with subsection (6A), the transferor shall furnish to the Registrar-General, at the time of registration of the deed of transfer, a bank guarantee equivalent to the remaining balance of the land transfer tax leviable.
- (7) Notwithstanding subsections (4) and (6), where the transfer is made by the owner of an immovable property, other than by an IRS Company, RES Company or IHS Company in respect of a stand-alone villa under the Real Estate Development Scheme, pursuant to subsection (6), the amount of land transfer tax shall—
- (a) in the case of a non-citizen or a company registered as a foreign company under the Companies Act—
- (i) where the property transferred is under the IRS, be at the rate specified in Part A of the Second Schedule, or 50,000 US dollars, or its equivalent in any other hard convertible foreign currency, whichever is the higher; or
 - (ii) where the property transferred is under the RES, be at the rate specified in Part A of the Second Schedule, or 25,000 US dollars, or its equivalent in any other hard convertible foreign currency, whichever is the higher; or
- (b) in the case of a citizen of Mauritius or a company incorporated under the Companies Act—
- (i) where the property transferred is under the IRS, be at the rate specified in Part A of the Second Schedule, or 50,000 US dollars, or its equivalent in any other hard convertible foreign currency or in Mauritius currency, whichever is the higher; or
 - (ii) where the property transferred is under the RES, be at the rate specified in Part A of the Second Schedule, or 25,000 US dollars, or its equivalent in any other hard convertible foreign currency or in Mauritius currency, whichever is the higher .

[EDITORIAL NOTE: The amendments to this section by section 11 of Act 18 of 1999 do not, by virtue of section 15 (f) of Act 25 of 2000, apply to a partnership formed before 1 August 1999.] [Repealed and replaced Act 26 of 2013 cio 1 January 2014]

- (8) (a) Where the Registrar-General is notified in writing by the ERCP Committee that the proceeds of the sale of the immovable property referred to in item (r) (iii) of the Eighth Schedule have not been invested in the company within the prescribed period, he shall, by written notice sent by registered post, claim from the transferor the land transfer tax exempted together with a penalty equal to 20 per cent of the amount of the land transfer tax exempted.
- (b) For the purposes of paragraph (a), “ERCP Committee” means the ERCP Committee under the Economic Restructuring and Competitiveness Package, referred to in the Ministry’s document entitled “Facing The Euro Zone Crisis and Restructuring for Long Term Resilience” and dated August 2010 and published as a General Notice in the *Gazette* of Thursday 9 December 2010.

[S. 4 amended by s.4 of Act 20 of 1988 cio. 16 July 1988; s. 7 (b) of Act 22 of 1989 cio. 1 July 1989; s. 4 (3) of Act 17 of 1991 cio. 1 July 1991; s. 3 (a) of Act 25 of 1993 cio. 1 July 1993; s. 11 (c) of Act 18 of 1999 cio. 1 August 1999; s. 72 (3) (b) of Act 14 of 2001 cio. 1 December 2001; s. 14 (b) of Act 23 of 2001 cio. 11 August 2001; s. 17 (b) of Act 20 of 2002 cio. 10 August 2002; s. 12 (c) of Act 28 of 2004 cio. 26 August 2004; s. 19 (c) of Act 15 of 2006 cio. 7 August 2006; s. 18 of Act 18 of 2008 cio. 19 July 2008; s. 11 (a) of Act 1 of 2009 cio. 1 January 2009; s. 24 (b) of Act 14 of 2009 cio. 30 July 2009; s. 13 (b) of Act 20 of 2009 cio. 19 December 2009; s. 10 (a) of Act 10 of 2010 cio. 4 January 2011; s. 14 of Act 26 of 2012 cio. 22 December 2012.]

5. – 7. —

[Ss. 5 to 7 repealed by s. 12 (d) of Act 28 of 2004 cio. 26 August 2004.]

PART IV

[Part IV repealed by s. 19 (d) of Act 15 of 2006 cio. 7 August 2006.]

8. – 11. —*[Ss. 8 to 11 repealed by s. 19 (d) of Act 15 of 2006 cio. 7 August 2006.]*

PART V – CAMPEMENT TAX

12. Interpretation

In this Part—

“authorised officer” has the same meaning as in section 16;

“campement” means any campement site together with any building or structure, or part thereof, flat or apartment, thereon used at any time for the purpose of residence;

“campement site” has the same meaning as in section 16;

“campement tax”—

(a) means the tax leviable under section 13; and

(b) includes the surcharge under section 15B;

“exempt owner” means an owner of a campement—

(a) who uses the campement as his sole residence; and

(b) the market value of which is less than the amount specified in Part IV of the Fifth Schedule;

“market value” means the open market value of the campement by reference to which the annual campement tax shall be calculated for a period of 3 years commencing on 1 July of every financial year;

“owner”—

(a) has the same meaning as in section 16; and

(b) includes—

(i) in the case of a bungalow or a group of bungalows, or apartments located on a leasehold campement site situate on Pas Géométriques, the holder of the title deed of each bungalow or apartment, as the case may be; or

(ii) in the case of a bungalow or a group of bungalows, or apartments, located on a campement site owned or leased by a *société* or partnership where the associate or partner does not hold the title deed of the bungalow or apartment, the associate or partner in proportion to his share in the *société* or partnership.

[S. 12 inserted by s. 17 (d) of Act 20 of 2002 cio. 1 July 2002; amended by s. 12 (a) of Act 18 of 2003 cio. 21 July 2003; repealed and replaced by s. 19 (e) of 15 of 2006 cio. 1 July 2007.]

13. Campement tax

- (1) Subject to the other provisions of this section, there shall be levied on every owner of a campement, an annual tax to be known as the campement tax.
- (2) The campement tax shall be levied at the rate specified in Part III of the Fifth Schedule and shall be calculated by reference to the market value of the campement after deducting therefrom—
 - (a) the campement site tax leviable under Part VI in respect of the campement site; and
 - (b) the general rate, if any, leviable under the Local Government Act or any other enactment in respect of the immovable property.
- (3) Where the aggregate of the campement site tax and the general rate or where the campement site tax or the general rate exceeds the campement tax leviable, no campement tax shall be payable in respect of the campement.
- (4) Where a campement is sold or transferred after 1 July in any financial year, the campement tax leviable on the campement in respect of that financial year shall be levied on the seller or transferor of the campement and shall, in no circumstances, be refundable.
- (5) No campement tax shall be leviable on an exempt owner.
- (5A) Where a campement is situated on a campement site which is used for agricultural or grazing purposes, the value of the campement for the purposes of this section shall be computed by reference to the market value of the building or structure thereon together with the campement site on which it is situated, the extent of which shall be 1A 25 (0.5276 hectare).
- (6) The campement tax shall, in respect of every financial year, be due on 1 July and shall be payable to the authorised officer in 2 equal instalments, the first on or before 31 July in that year and the second on or before 31 January next ensuing.
- (7) The campement tax leviable in respect of the financial year ending 30 June 2003 shall be payable in 2 equal instalments, the first on or before 31 October 2002 and the second on or before 30 April 2003.
- (8) The surcharge leviable under the Finance Act 1980 and the Finance Act 1981 shall not apply to this Part.
- (9) For the removal of doubts, “used” in the definition of “campement” shall be construed as available for use.

[S. 13 inserted by s. 17 (d) of Act 20 of 2002 cio. 1 July 2002; amended by s. 12 (b) of Act 18 of 2003 cio. 21 July 2003.]

14. Declaration of campement and payment of tax

- (1) Subject to the other provisions of this section, every owner of a campement shall, on or before 31 July in every financial year—
 - (a) submit a declaration in a form approved by the authorised officer; and
 - (b) at the same time, pay the campement tax leviable under this Part, if any.
- (2) The declaration under subsection (1) shall include—
 - (a) the full name of the owner and precise address of the campement;
 - (b) the zone of the campement site on which the campement is situated;
 - (c) the market value of the campement as at 1 July; and
 - (d) such other particulars and information as may be specified in the form.
- (3) The declaration of the campement under this section shall, in respect of the financial year 2002-2003, be submitted on or before 31 October 2002 and payment of the campement tax shall be made in 2 equal instalments, the first at the time the declaration is submitted and the second on or before 30 April 2003.

[S. 14 inserted by s. 17 (d) of Act 20 of 2002 cio. 1 July 2002; amended by s. 19 (f) of Act 15 of 2006 cio. 1 July 2007.]

15. Change in circumstances

Where—

- (a) there is a change in ownership of the campement;
- (b) the campement ceases to be used as sole residence by the owner; or
- (c) the market value of the campement being used as sole residence exceeds the amount specified in Part IV of the Fifth Schedule,

the new owner or the owner, as the case may be, shall give written notice thereof to the authorised officer within a period of 30 days from such change and do all such acts or things that are required to be done under this Part.

[S. 15 inserted by s. 17 (d) of Act 20 of 2002 cio. 1 July 2002.]

15A. Claims by authorised officer

(1) Subject to subsection (2), where—

- (a) the authorised officer is not satisfied with the declaration made under section 14; or
- (b) the owner has not submitted a declaration under section 14,

the authorised officer may make a claim of the amount of campement tax which, in his opinion, ought to be payable together with any surcharge under section 15B and that amount shall be the campement tax leviable under this Part.

- (2) Any campement tax claimed under subsection (1) shall be paid within 28 days of the notification of the claim.
- (3) Subject to subsection (4), no claim under this section shall be made where a declaration under section 14 in respect of a financial year—
 - (a) is made in that financial year, after a period of 4 financial years from the end of the financial year in which the declaration is made; or
 - (b) is made after that financial year, after a period of 4 financial years following the financial year in which the declaration is made.
- (4) Where a declaration under section 14 in respect of a financial year is not made, the authorised officer may, at any time, make a claim of the amount of campement tax which, in his opinion, ought to be payable together with any surcharge under section 15B for that financial year and that amount shall be the campement tax leviable on the owner under this Part.

[S. 15A inserted by s. 17 (d) of Act 20 of 2002 cio. 1 July 2002.]

15B. Surcharge

The owner of a campement who fails to pay the campement tax within the period specified in sections 13 (6) or (7) and 15A (2) shall be liable, in addition to the campement tax, to a surcharge representing—

- (a) 10 per cent of the campement tax for the first month or part of the month during which the campement tax remains unpaid; and
- (b) 2 per cent of the campement tax excluding the surcharge for each subsequent month or part of the month during which the campement tax remains unpaid, up to a maximum of 50 per cent of the campement tax.

[S. 15B inserted by s. 17 (d) of Act 20 of 2002 cio. 1 July 2002.]

15C. Application of sections 20, 24 (1), 25, 26 and 28 (6) and (7)

The provisions of sections 20, 24 (1), 25, 26 and 28 (6) and (7) shall apply to campements in the same way as they apply to campement sites.

[S. 15C inserted by s. 17 (d) of Act 20 of 2002 cio. 1 July 2002.]

PART VI – CAMPEMENT SITE TAX

16. Interpretation

In this Part—

“authorised officer” means any public officer designated by the Minister;

“campement site”—

(a) means any land which is situated wholly or partly within 81.21 metres from the high water mark; but

(b) does not include freehold land;

“owner” means—

(a) in respect of a campement site situate on Pas Géométriques, the lessee of the site;

(b) in respect of any other campement site—

(i) the person who is the owner by acquisition, succession, donation, legacy or prescription, of the site; and

(ii) where no such person can be found or ascertained, the occupier of the site;

“plan” means the plan referred to in section 17;

“register” means the register established under section 18;

“zone” means any area designated by the letters A to E as specified in Part I of the Fifth Schedule and as shown on the plan.

[S. 16 amended by s. 14 (d) of Act 23 of 2001 cio. the year commencing 1 July 2002; s. 27 (12) (c) of Act 33 of 2004 as amended by s. 4 (f) (ii) of Act 4 of 2006; s. 19 (g) of Act 15 of 2006 cio. 1 July 2007; s. 18 of Act 18 of 2008 cio. 19 July 2008.]

17. Plan

- (1) The authorised officer shall prepare a plan indicating the various zones in which are situated campement sites.
- (2) Any person may, on application to the authorised officer, inspect the plan during office hours.

18. Register

- (1) There shall be established for the purposes of this Part a register in which the authorised officer shall enter the particulars of every campement site and of every declaration made under section 19.
- (2) Any person may, on application made to the authorised officer, inspect the register during office hours.

19. Declaration

- (1) Every owner of a campement site shall, within one month of 16 July 1984, make a declaration in a form approved by the authorised officer.
- (2) Every person shall, within one month of—
 - (a) acquiring; or
 - (b) becoming the lessee of a campement site,make a declaration in a form approved by the authorised officer.
- (3) The declaration under subsection (2) shall, in the case of inheritance, be made by the heirs or any one of them.
- (4) Every person who contravenes this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees.

[S. 19 amended by s. 17 (e) of Act 20 of 2002 cio. 1 July 2002.]

20. Powers of authorised officer

- (1) The authorised officer or any person authorised by him in writing may, for the purpose of ascertaining whether any land is a campement site—
 - (a) at all reasonable times and, if so required, on production of proof of his authority, enter on and inspect the land;
 - (b) require by notice the owner or occupier of the land to furnish in writing, within such period as may be specified in the notice, such information relating to the land or to its ownership or occupation, as he may require.
- (2) Any person who—
 - (a) obstructs the authorised officer or any person authorised by him in writing in the exercise of his functions under subsection (1) (a);
 - (b) being the owner or occupier of any land, fails, without reasonable excuse or justification, to comply with a notice under subsection (1) (b), or, in supplying information under that subsection, makes any statement which is false, misleading or incomplete in a material particular,

shall commit an offence, and shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 3 months.

[S. 20 amended by Act 23 of 1992.]

21. Notice of entry on register

Where the authorised officer is of opinion that any campement site in respect of which a declaration has not been made under section 19 ought to be entered on the register, he shall enter the campement site on the register and give notice to the owner or the occupier of the campement site of his decision, giving reasons for his decision.

22. Removal of entry on register

- (1) Where any site which is entered on the register is, in the opinion of its owner, no longer a campement site, the owner may, by notice, require the authorised officer to remove the site from the register.
- (2) Where the authorised officer is of opinion that the site to which a notice under subsection (1) relates ought not to be removed, he shall give notice of his decision to the owner, giving reasons for his decision.

23. Campement site tax

- (1) There shall be levied on every owner of a campement site situated in a zone specified in Part I of the Fifth Schedule an annual tax to be known as the campement site tax, at the appropriate rate specified in Part II of that Schedule.
- (2) Subject to section 51 (4), the tax shall be payable to the authorised officer on or before 31 July in every year.
- (3) The owner of a campement site who fails to pay the tax within the period specified in subsection (2) or section 51 (4) shall be liable to, in addition to the tax, a surcharge representing—
 - (a) 10 per cent of the campement site tax for the first month or part of the month during which the campement site tax remains unpaid; and
 - (b) 2 per cent of the campement site tax excluding the surcharge for each subsequent month or part of the month during which the campement site tax remains unpaid,

up to a maximum of 50 per cent of the campement site tax.

- (4) The tax shall be paid and may be recovered notwithstanding written representations lodged with the Clerk to the Committee in accordance with section 19 of the Mauritius Revenue Authority Act against the levy of the tax.

[S. 23 amended by Act 23 of 1992; s. 14 (e) of Act 23 of 2001 cio. 11 August 2001; s. 17 (f) of Act 20 of 2002 cio. 1 September 2002; s. 27 (12) (d) of Act 33 of 2004 cio. 1 July 2006.]

24. Written representations to Assessment Review Committee

- (1) Any person who is aggrieved by a decision taken by the authorised officer under this Part may, within 28 days of the notification of the decision, lodge written representations with the Clerk to the Committee in accordance with section 19 of the Mauritius Revenue Authority Act.
- (2) Where the Committee cancels or amends a decision of the authorised officer, it shall order the authorised officer—
 - (a) to refund to the appellant the amount of any tax paid, together with interest at the legal rate on the amount of the refund from the date of payment;
 - (b) to remove or amend any entry made in the register.

- (3) Where the Minister cancels or amends a decision of the authorised officer, he shall order the authorised officer—
- (a) to refund to the appellant the amount of any tax paid, together with interest at the legal rate on the amount of the refund from the date of payment; and
 - (b) to remove or amend any entry made in the register.

[S. 24 amended by s. 14 (f) of Act 23 of 2001 cio. 11 August 2001; s. 27 (12) (d) of Act 33 of 2004 cio. 1 July 2006.]

25. Service of notice

- (1) Any notice which is to be given to the authorised person may be sent to him by post.
- (2) Any notice which is required to be given by the authorised officer to the owner of a campement site may—
 - (a) be given to him personally or to his authorised agent;
 - (b) be sent by post to his last known address or that of his authorised agent; or
 - (c) where the owner or his authorised agent cannot be found, or his address is not known, be posted up in a conspicuous position on the site.

26. Burden of proof

Notwithstanding any other enactment, the burden of proof that any tax has been paid or any campement site is exempt from tax shall lie on the person—

- (a) liable to pay the tax;
- (b) claiming the tax has been paid; or
- (c) claiming that the campement site is exempt from tax.

PART VIA – TAX ON TRANSFER OF LEASEHOLD RIGHTS IN STATE LAND

26A. Tax on transfer of leasehold rights in State land

- (1) There shall be levied, on the registration of a deed of transfer or a deed witnessing the transfer of—
- (a) leasehold rights in State land;
 - (b) shares in a civil society or association which reckons among its assets any leasehold rights in State land;
 - (c) shares in a partnership which reckons among its assets—
 - (i) any leasehold rights in State land; or
 - (ii) any shares which the partnership holds in any other partnership, successive partnership, company or successive company which reckons among its assets such leasehold rights;
 - (d) shares in a company which reckons among its assets—
 - (i) any leasehold rights in State land; or
 - (ii) any shares which the company holds in any other partnership, successive partnership, company or successive company which reckons among its assets such leasehold rights;

[Amended 26/12 (cio 22/12/12).]

- (e) shares in a company or issue of shares by a company or transfer of *part sociale* in a *société* which gives right of ownership, occupation or usage of an immovable property or any part thereof,

[Inserted 26/12 (cio 22/12/12).]

irrespective of the date on which the transfer takes place, a tax on the open market value of the leasehold rights at the rate specified in the Seventh Schedule.

- (1A) (a) In subsection (1)(d) –

“transfer”, in relation to shares in a company, includes any issue of new shares to any person or conversion of debentures into shares by a company which results in a change of control of that company.

[Repealed and replaced 26/12 (cio 22/12/12).]

- (b) For the purposes of paragraph (a), “control” has the same meaning as in the Companies Act.

- (2) The tax under this section shall be paid by the transferor and the transferee in equal proportion.
- (3) Where a transfer of shares referred to in subsection (1) (b) or (c) takes place, the tax shall be payable in such proportion as the number of shares transferred bears to the total number of shares issued by the company or to the total number of shares in the civil society, partnership or association, as the case may be.
- (4) Notwithstanding subsection (1), no tax under this section shall be paid on the registration of a deed of transfer or a deed witnessing the transfer of leasehold rights in State land where—
 - (a) in respect of leasehold rights in State land, the application to the Ministry of Housing and Land Development for the transfer was made before 9 June 1997; or
 - (b) a transfer of shares in a company referred to in subsection (1) (b) or (c) takes place and no duty under the Registration Duty Act is leviable on the transfer by virtue of the exceptions specified in item 8 of paragraph J of Part I of the First Schedule to the Registration Duty Act.
- (5) For the purposes of this section, “company or successive company” shall be construed within the meaning of “company” under section 24 (1) of the Registration Duty Act.

[S. 26A inserted by s. 5 (c) of Act 9 of 1997 cio. 1 July 1997; amended by s. 11 (h) of Act 18 of 1999 cio. 1 August 1999; s. 14 (g) of Act 23 of 2001 cio. 11 August 2001; s. 19 (h) of Act 15 of 2006 cio. 7 August 2007; s. 19 (b) of Act 17 of 2007 cio. 22 August 2007; s. 13 (c) of Act 20 of 2009 cio. 19 December 2009; s. 10 (b) of Act 10 of 2010 cio. 4 January 2011; ; s. 14 of Act 26 Of 2012 cio. 22 December 2012.]

PART VII – GENERAL

27. —

[S. 27 repealed and replaced by s. 5 of Act 23 of 1993 cio. 1 November 1993; s. 14 (h) of Act 23 of 2001 cio. 11 August 2001; s. 17 (g) of Act 20 of 2002 cio. 10 August 2002; s. 27 (12) (d) of Act 33 of 2004 cio. 1 July 2006; repealed by s. 19 (i) of Act 15 of 2006 cio. 7 August 2006.]

27A. Assessment of land and building

(1) Where no documentary evidence establishing that a building or any other fixture existing on a property belongs to, or has been erected by, a person, other than the transferor, is attached to a deed of transfer, the duty and tax leviable under this Act or the Registration Duty Act shall, where applicable, be levied on—

- (a) the consideration mentioned in the deed; or
- (b) the open market value of the property, including the building or fixture existing on the property as determined in accordance with section 28 or in accordance with the decision of the Committee,

whichever is the higher.

(2) Subsection (1) shall not apply to a deed of transfer which contains—

- (a) a complete description of any building or fixture existing on the property;
- (b) a statement by the transferor that he retains full ownership of the building or fixture;
- (c) an undertaking by the transferor that he will not transfer the building or fixture otherwise than by an authentic deed.

[S. 27A inserted by s. 3 (a) of Act 19 of 1986 cio. 1 July 1986; amended by s.6 of Act 23 of 1993 cio. 1 November 1993; s. 14 (i) of Act 23 of 2001 cio. 11 August 2001.]

28. Valuation of property

(1) (a) The value of any property that is transferred, as specified in paragraph (b), shall, for the purposes of levying duty and taxes under this Act, be determined in accordance with this section.

(b) The property referred to in paragraph (a) shall be the following—

(i) any property, including any immovable property which forms part of the assets of a partnership, successive partnership, company or successive company;

(ii) any property which is deemed under subsections (2) and (3) of section 4 to have been transferred;

(iii) — (v) —

(vi) any immovable property which is the subject of a document attracting the proportional duty under any of items 10 to 13 of paragraph I or under any of items 10 to 14 of paragraph J of Part I of the First Schedule to the Registration Duty Act;

(vii) any property which is the subject matter of a deed by which a purchaser of the property declares that he has purchased the property on behalf of another person and in the name of that person with money belonging to and provided by that person;

[Amended 26/12 (cio 22/12/12).]

(viii) the immovable property or any part thereof to which a person has right of ownership, occupation or usage pursuant to a transfer of shares in a company or issue of shares by a company or transfer of *part sociale* in a *société*.

[Inserted 26/12 (cio 22/12/12).]

- (2) Where the Registrar-General is dissatisfied with the value mentioned in any deed of transfer or any other deed witnessing the transfer of any property, he may—
- (a) exercise a right of pre-emption under section 20 of the Registration Duty Act; or
 - (b) where he does not exercise the right of pre-emption, by notice in writing, make an assessment—
 - (i) in the case where there has been a transfer of shares in a partnership, of the value of the immovable property forming part of the assets of that partnership or any other partnership, successive partnership, company or successive company in which that partnership holds shares for the purposes of determining the value of the shares transferred;
 - (ii) in the case where there has been a transfer of shares in a company, of the value of the immovable property forming part of the assets of that company or any other company, successive company, partnership or successive partnership in which that company holds shares for the purposes of determining the value of the shares transferred; or
 - (iii) in any other case, of the value of the property being transferred stating the amount of duty or tax, if any.
- (2A) A notice under subsection (2) (b) shall—
- (a) be in a form approved by the Registrar-General;
 - (b) give the basis of the assessment; and
 - (c) be forwarded to the transferee and the transferor and if there are several, to any of them, by registered post within 7 months from the date of the registration of the deed.
- (3) Where the Registrar-General has given written notice under subsection (2) (b), the person to whom the notice has been given shall pay any duty or tax specified therein within 28 days of the date of the notice.
- (3A) Any person who is dissatisfied by a notice under subsection (2) (b), issued on or after 1 October 2008, may, within 28 days of the date of the notice, object to the notice by letter sent to the Registrar-General by registered post.

- (3B) Where it is proved to the satisfaction of the Registrar-General that, owing to illness or other reasonable cause, a person has been prevented from making an objection within the time specified in subsection (3A), the Registrar-General may consider the objection.
- (3C) Where a person makes an objection under subsection (3A), he shall—
- (a) specify in his letter of objection, the grounds of the objection; and
 - (b) at the same time pay to the Registrar-General 30 per cent of the amount of duty or tax excluding penalty, claimed in the notice under subsection (2) (b).
- (3D) Any objection under subsection (3A) shall be dealt with by an objection unit set up for that purpose.
- (3E) The objection unit under subsection (3D) shall consist of—
- (a) one representative of the Chief Government Valuer, not below the rank of Senior Government Valuer who shall be the Chairperson; and
 - (b) 2 representatives of the Registrar-General, not below the rank of Chief Registration Officer.
- (3F) Where the Registrar-General considers an objection under subsection (3A) or (3B), he shall, by notice in writing—
- (a) amend the claim; or
 - (b) maintain the claim.
- (3G) Where a notice is issued under subsection (3F), the person shall pay the duty or tax claimed in the notice within 28 days of the date of the notice.
- (4) Any person who is aggrieved by a notice under subsection (3F) may lodge written representations with the Clerk to the Committee in accordance with section 19 of the Mauritius Revenue Authority Act.
- (4A) —
- (4B) Where a person fails to pay the duty or tax under subsection (3G), section 37 shall apply.
- (4C) Where the value assessed under subsection (2) (b) or (3F) is reduced pursuant to a decision of the Committee or determination of an appeal to the Supreme Court, any amount of duty or tax paid in excess shall be refunded, together with interest at the legal rate, free of income tax, from the date the payment is effected to the Registrar-General to the date it is refunded.

- (5) (a) Where a notice under subsection (2) (b) or (3F) is returned undelivered, the Registrar-General shall inscribe against the person liable to any additional duty or tax, on all properties belonging or which may subsequently belong to that person, a privilege for the additional duty or tax specified in the notice.
- (b) Notwithstanding section 44, the additional duty or tax secured by the privilege inscribed under paragraph (a) may be claimed at any time.
- (6) For the purposes of this section, the valuer shall, not more than 5 months from the date of the registration of the deed of transfer, advise the Registrar-General of the open market value of the property as at that date of registration.

(7) The valuer may—

- (a) require, by letter forwarded by registered post, the transferee or transferor including the person who acquires by prescription or by inheritance or legacy and the partnership to which property has been brought or, if there are several, any one of them, to show and identify, within such time as may be specified in the letter, the property under reference and to furnish such information as to enable the valuer to make an accurate assessment of the open market value of the property;
- (b) enter and inspect any property under reference after giving not less than 24 hours' written notice to the transferee or occupier of the property.
- (7A) The Chief Government Valuer shall keep and maintain a valuation database, by district, in respect of every valuation of immovable property he makes and which shall consist of the entries specified in subsection (7B), kept on computer or other electronic device at the office of the Chief Government Valuer.
- (7B) The entries referred to in subsection (7A) shall include, in respect of each immovable property—
- (a) a brief description of the immovable property, including particulars of transcription, extent of land, area of building in square metres and its location including the town or village and street name;
- (b) the full name of the transferor and transferee;
- (c) an indication as to whether the building is for residential, business, commercial or industrial purposes;
- (d) the value of the immovable property, as specified in the deed of transfer; and

- (e) the open market value of the immovable property estimated by the Chief Government Valuer, the methodology and the key parameters used including the valuation of another immovable property used as comparison and its reference in the database.
- (8) A valuer, other than a Government Valuer, shall, in relation to any valuation made by him under this section, be paid such fee as the Minister may determine.
- (9) Subsection (2) shall not apply in relation to a deed witnessing the transfer of an immovable property from a company holding an investment certificate in respect of a project under the Real Estate Development Scheme prescribed under the Investment Promotion Act.

[S. 28 amended by s. 5 of Act 15 of 1988 cio. 1 July 1988; s. 6 of Act 20 of 1988 cio. 16 July 1988; s. 11 (d) of Act 22 of 1989 cio. 1 July 1989; s. 5 (b) of Act 30 of 1990 cio. 24 July 1990; s. 11 (d) of Act 23 of 1992 cio. 1 July 1992; s.7 of Act 23 of 1993 cio. 1 November 1993; s. 14 (j) of Act 23 of 2001 cio. 11 August 2001; s. 17 (h) of Act 20 of 2002 cio. 10 August 2002; s. 12 (f) of Act 28 of 2004 cio. 26 August 2004; s. 27 (12) (d) of Act 33 of 2004 cio. 1 July 2006; s. 19 (j) of Act 15 of 2006 cio. 7 August 2006; s. 19 (c) of Act 17 of 2007 cio. 22 August 2007; s. 18 of Act 18 of 2008 cio. 19 July 2008 and 1 October 2008; s. 13 (d) of Act 20 of 2009 cio. 19 December 2009; s. 14 of Act 26 of 2012 cio. 22 December 2012.]

29. Transfer of immovable property between an ascendant and a descendant

- (1) —
- (2) Where a descendant transfers to an ascendant, or to an ascendant and his spouse married under the legal community of goods and property, property which was acquired by the descendant from the ascendant, no tax under this Act and no duty under the Registration Duty Act shall be levied on the deed witnessing such transfer.
- (3) Where an ascendant transfers to a descendant property which the ascendant acquired in the manner referred to in subsection (2), no tax under this Act and no duty under the Registration Duty Act shall be levied on the deed witnessing such transfer.

[S. 29 amended by Act 18 of 1999; repealed and replaced by s. 12 (g) of Act 28 of 2004 cio. 26 August 2004; amended by s. 21 (a) of Act 14 of 2005 cio. 21 April 2005; s. 19 (d) of Act 17 of 2007 cio. 22 August 2007.]

30. – 33. —

34. Amendment of tax and duty

Where the value of a property is revised under section 28 or is determined by the Committee, any tax or duty payable in respect of the property shall be revised accordingly.

[S. 34 amended by Act 23 of 1993; s. 14 (k) of Act 23 of 2001 cio. 11 August 2001; repealed and replaced by s. 19 (k) of Act 15 of 2006 cio. 7 August 2006.]

35. Penalty for undervaluation

(1) Where the open market value of a property, as revised under section 28 or as determined by the Committee, exceeds the value of the property as specified in the deed of transfer, the Registrar-General shall, subject to subsection (2), impose and claim from the transferee or the transferor, as the case may be, in addition to the amount of the duty and taxes claimed, a penalty representing, where the difference between the open market value and the value specified in the deed –

- (a) is between 10 and 50 per cent of the value specified in the deed, 20 per cent of that amount; or
- (b) exceeds 50 per cent of the value specified in the deed, 50 per cent of that amount.

[Amended 20/11 (cio 16/07/11).]

(2) Subsection (1) shall not apply where the transfer is made by a descendant or his spouse to an ascendant or his spouse or between brothers and sisters and their spouses.

[S. 35 amended by Act 23 of 1993; Act 9 of 1997; s. 14 (l) of Act 23 of 2001 cio. 11 August 2001; s. 12 (h) of Act 28 of 2004 cio. 26 August 2004; repealed and replaced by s. 19 (l) of Act 15 of 2006 cio. 7 August 2006; s. 16 of Act 20 of 2011 cio. 16 July 2011.]

35A. Power to waive penalty

- (1) The Registrar-General may waive the whole or part of any penalty imposed under this Act where he is satisfied that failure to comply with this Act was attributable to a just or reasonable cause.
- (2) In the exercise of his power under subsection (1), the Registrar-General shall record in writing the reasons for waiving the whole or part of the penalty.

[S. 35A inserted by s. 19 (l) of Act 15 of 2006 cio. 7 August 2006.]

36. Payment of duty and tax

- (1) Notwithstanding any other enactment, a notary shall, in respect of any deed drawn up by him, claim the duty and taxes leviable under Parts II, III and VIA of this Act and pay them to the Registrar-General.
- (2) Where land is acquired compulsorily, the amount representing the taxes leviable under Part III payable in respect of the land shall be withheld from the compensation payable to the transferor and shall be paid to the Registrar-General.
- (3) (a) Where land is disposed of by judicial sale, levy or licitation, the Master and Registrar shall withhold from any deposit made at the time of adjudication, the amount representing the taxes leviable under Parts III and VIA and pay it to the Registrar-General.
- (b) The Master and Registrar shall direct the adjudicatee to deduct from the purchase price and pay to the Registrar-General in preference to other creditors—
 - (i) where no deposit has been made, an amount representing the taxes leviable under Parts III and VIA;
 - (ii) where a deposit has been made but is not sufficient to cover the tax leviable, an amount representing the difference between the amount of the taxes leviable under Parts III and VIA and the amount of tax paid from the deposit.
- (4) Any tax leviable under Part V or Part VI shall be paid to the authorised officer.

[S. 36 amended by Act 9 of 1997; Act 25 of 2000; s. 14 (m) of Act 23 of 2001 cio. 11 August 2001; s. 8 (8) (a) of Act 17 of 2003 cio. 21 July 2003; s. 27 (12) (d) of Act 33 of 2004 cio. 1 July 2006; s. 19 (m) of Act 15 of 2006 cio. 7 August 2006.]

37. Inscription of privilege

- (1) The Registrar-General may, at any time, inscribe a privilege on all properties belonging or which may subsequently belong to the transferee or the transferor for any amount of duty or taxes remaining unpaid under Parts II, III, IV and VIA and section 36, as appropriate.
- (2) The authorised officer may cause an inscription of privilege to be inscribed on all properties belonging or which may subsequently belong to a person for any amount of tax due under Parts V and VI by that person.

- (3) (a) The inscription enrolled under subsection (1) shall be erased on payment of the duty or tax.
- (b) The inscription may be erased in respect of any property belonging to the debtor where the Registrar-General is satisfied that the value of his other properties is sufficient to secure payment of the amount due.
- (4) The inscription of privilege under subsection (2) shall be erased upon a request in writing to that effect by the authorised officer.

[S. 37 amended by Act 23 of 1992; Act 9 of 1997; Act 25 of 2000; s. 17 (i) of Act 20 of 2002 cio. 1 July 2002; s. 8 (8) (b) of Act 17 of 2003 cio. 21 July 2003.]

38. Abatement or deferment of duty or tax

No payment of duty or tax shall be abated or deferred on the ground that the amount of duty or tax payable is in dispute or on any other ground.

39. Anti-avoidance provisions

- (1) Where the Registrar-General is satisfied that the sole or dominant purpose of any arrangement which involves one or more transactions on properties is to reduce or avoid any payment of duty or tax which would otherwise be payable under the Registration Duty Act or this Act, the Registrar-General may, without prejudice to the validity of such transactions, make an assessment of the amount of duty or tax that would otherwise be payable and claim such amount from the parties to the transaction.
- (2) Any party who is aggrieved by a claim under subsection (1) may lodge written representations with the Clerk to the Committee in accordance with section 19 of the Mauritius Revenue Authority Act.
- (3) A notary shall inform the parties to every notarial deed of the provisions of this section and shall insert a clause in the deed stating that he has so informed the parties.

[S. 39 repealed by s. 19 (o) of Act 15 of 2006 cio. 7 August 2006; reinserted by s. 19 (e) of Act 17 of 2007.]

40. —

41. Validity of notice by post

- (1) A notice or letter under this Act shall be deemed to have been validly served on the transferor or transferee if the notice or letter has been sent by registered post to the address indicated in the deed of transfer—
- (a) of the transferor or transferee; or
 - (b) of the elected domicile of the transferor or transferee.
- (2) Where the notice or letter is returned undelivered, the provision of subsection (1) shall apply to any notice or letter sent by registered post to the address of the transferor or transferee.

[S. 41 amended by s. 19 (f) of Act 17 of 2007 cio. 22 August 2007.]

42. Recovery of duty

- (1) Where any duty or tax is due under Parts II, III, V, VI and VIA and section 36, the Registrar-General or the authorised officer, as the case may be, may apply to a Judge in Chambers for an order (*contrainte*) to issue against the debtor.
- (2) An order made under subsection (1) shall be—
- (a) executory; and
 - (b) served on the debtor.
- (3) Any debtor aggrieved by an order made under subsection (1) may, within 10 days of the service of the order, appeal to the Supreme Court.
- (4) No costs shall be awarded against an unsuccessful party except disbursements for—
- (a) stamp duty;
 - (b) service of the order;
 - (c) execution of the order.

[S. 42 amended by Act 23 of 1992; Act 9 of 1997; Act 25 of 2000; s. 17 (i) of Act 20 of 2002 cio. 1 July 2002; s. 19 (p) of Act 15 of 2006 cio. 7 August 2006.]

43. Refund of duty or tax

- (1) Where duty or tax has been properly levied on any document in accordance with Parts II, III, IV and VIA, the duty or tax shall not be refunded whatever may be the effect of any subsequent event or declaration on the transaction witnessed by the document.
- (2) Where duty has not been properly levied—
 - (a) application may be made to the Registrar-General for a refund; and
 - (b) subject to section 44, the Registrar-General may refund the excess.
- (3) Where the owner of a campement or campement site proves to the satisfaction of the authorised officer that he has paid tax under Part V or Part VI in excess, the authorised officer may, subject to section 44, refund the amount paid in excess.

[S. 43 amended by Act 9 of 1997; s. 14 (n) of Act 23 of 2001 cio. 11 August 2001; s. 17 (j) of Act 20 of 2002 cio. 1 July 2002; s. 19 (q) of Act 15 of 2006 cio. 7 August 2006.]

44. Time limit for claims or refunds

- (1) Subject to section 28 (5) (b), subsection (2) and to article 2245 of the Code Civil Mauricien, a claim for—
 - (a) duty or tax not levied on a stipulation in a document;
 - (b) any balance of duty or tax insufficiently levied;
 - (c) any additional duty or tax leviable by reason of an incorrect or a false declaration;
 - (d) refund of duty or tax, shall not be receivable after the expiry of 5 years from the date on which the deed was registered.
- (2) The time limit of 5 years specified in subsection (1) shall, where the open market value of the property has been decided by the Committee, be reckoned from the date of the decision.
- (3) No claim for refund of tax under section 43 (3) shall be receivable after the expiry of 5 years from the date on which the tax was paid.

[S. 44 amended by Act 23 of 1993; s. 14 (o) of Act 23 of 2001 cio. 11 August 2001; s. 19 (r) of Act 15 of 2006 cio. 7 August 2006.]

45. Payment to be in multiples of 5 rupees

Any duty payable under this Act, which is less than a multiple of 5 rupees, shall be increased to the next higher figure which is a multiple of 5 rupees.

45A. Derogation

(1) Notwithstanding this Act or any other enactment, a deed of transfer, for the construction of a residential building, of a lot excised from a larger portion of land, or a portion of land on which exists a house, by a partnership or a company to a worker who is either employed or who, immediately before his retirement, was employed by the vendor shall, where the deed of transfer contains a declaration from—

- (a) the Fund that the partnership or company is registered with it;
- (b) the partnership or company that the transferee is, or was immediately before his retirement, in its employment and that it has not effected on or after 1 July 1986 any transfer of land to the worker,

be exempt from payment of the duty and taxes leviable under Parts II, III and V of the Act and the duty leviable under the Transcription and Mortgage Act.

(2) The provisions of subsection (1) shall apply to—

- (a) the heirs of a deceased worker collectively (“*les ayants droits*”) as they would have applied to a worker referred to in that subsection; or
- (b) the transfer of land by a partnership or company forming part of the same group as the employer of the worker.

(3) A deed of transfer referred to in the Eighth Schedule shall be exempt from duty or taxes leviable under the appropriate Part or Parts specified in that Schedule.

(4) For the purposes of section (1)—

“Fund” means the Sugar Insurance Fund;

“partnership or company” means a partnership or company engaged in the milling of sugar or the planting of sugar canes and which is registered with the Fund;

“residential building” includes a lot in a building which has been the subject of a duly registered and transcribed deed witnessing a *règlement de co-propriété*;

“worker” has the same meaning as in the Labour Act.

- (5) Notwithstanding this Act or any other enactment, where a deed witnessing—
- (a) the transfer of a plot of freehold land during the period 1 January 2009 to 31 December 2010 to a company registered under section 161A (27) of the Income Tax Act for the construction of a building thereon for sale, renting or its own use; or
 - (b) the transfer, on or before 30 June 2011, by a company registered under section 161A (27) of the Income Tax Act, of a plot of freehold land together with a building or part of a building thereon or by way of a *vente à terme* under *article 1601-2*, or a *vente en l'état futur d'achèvement* under *article 1601-3*, of the Code Civil Mauricien, the construction of which has started on or after 1 January 2009, contains a declaration to the effect that the company is registered under section 161A (27) of the Income Tax Act and is accompanied by the certificate of registration issued under section 161A (31) of the Income Tax Act, it shall, subject to subsection (6), be exempted from the duty and tax leviable under Part II and Part III.
- (6) The exemption referred to in subsection (5) shall be granted only in respect of the land or that part of the land used for the construction of the building.
- (6A) (a) Subject to paragraph (b), subsections (5) to (8) shall apply to leasehold land.
- (b) The exemption from the duty and tax leviable under Part II and Part III shall not apply in respect of any transfer referred to in subsection (5) (b) where the building or part of the building is on State land.
- (7) Where the Registrar-General is notified under section 161A (33) of the Income Tax Act that the company has failed to satisfy the condition specified in section 161A (28) (b), he shall, by written notice sent by registered post, claim the duty and taxes exempted under subsection (5) together with a penalty equal to 20 per cent of the amount of duty and tax exempted from—
- (a) in the case of a transfer under subsection (5) (a), the transferee; or
 - (b) in the case of a transfer under subsection (5) (b), the transferor.

(8) Where land planned to be used for a construction project is not fully utilised, the Registrar-General shall claim the duty and taxes exempted under subsection (5) in relation to that part of the unutilised land in the same manner as is specified in subsection (7) together with a penalty equal to 20 per cent of the amount of duty and tax exempted.

(9) Notwithstanding this Act or any other enactment, a deed witnessing –

(a) the transfer of a portion of freehold land during the period from 1 January 2012 to 31 December 2014, to a company registered under section 161A(46) of the Income Tax Act, for the construction of a housing estate thereon of at least 5 residential units, shall be exempted from payment of land transfer tax under this Act;

[Amended Act 26 of 2013]

(b) the transfer or vente en état futur d'achèvement (VEFA) by a company under paragraph (a), of a housing unit forming part of a housing estate referred to in paragraph (a), the value of which-

(i) does not exceed 2.5 million rupees, where the project was registered under section 161A (46) of the Income Tax Act during the year 2012; or

(ii) does not exceed 4 million rupees, where the project is registered under section 161A (46) of the Income Tax Act during the years 2013 and 2014, shall be exempted from payment of land transfer tax under this Act, provided the transfer is made on or before 30 June 2016.

[Added 37/11 (cio 15/12/11).][Repealed and replaced . Act 26 of 2013 cio 1 January 2014]

(10) Where the Registrar-General is notified, under section 161A(47) of the Income Tax Act, that the company referred to in subsection (9)(a), has failed to comply with the conditions specified in section 161A(46) of the Income Tax Act, he shall, by written notice sent by registered post, claim the tax referred to in subsection(9)(b), together with a penalty of 20 per cent of the amount of tax exempted.

[Added 37/11 (cio 15/12/11).] [Amended Act 26 of 2013]

[S. 45A inserted by s. 3 (b) of Act 19 of 1986 cio. 1 July 1986; s. 4 (4) of Act 17 of 1991 cio. 1 July 1991; s. 12 (b) of Act 25 of 1994 cio. 27 July 1994; s. 4 (b) of Act 17 of 1995 cio. 12 August 1995; s. 5 of Act 9 of 1997 cio. 30 July 1999; s. 5 of Act 10 of 1998 cio. 21 July 1988; s. 11 (j) of Act 18 of 1999 cio. 1 August 1999; s. 12 (c) of Act 18 of 2003 cio. 21 July 2003; s. 12 (i) of Act 28 of 2004 cio. 26 August 2004; s. 19 (r) of Act 15 of 2006 cio. 7 August 2006; s. 19 (g) of Act 17 of 2007 cio. 22 August 2007; s. 11 (b) of Act 1 of 2009 cio. 1 January 2009; s. 24 (c) of Act 14 of 2009 cio. 30 July 2009; s. 9 of Act 37 of 2011 cio. 15 December 2011.]

46. —

[S. 46 repealed and replaced by s. 9 (c) Act 56 of 1985 cio. 9 November 1985; repealed by s. 19 (t) of Act 15 of 2006 cio. 10 January 2007.]

47. Regulations

- (1) The Minister may make such regulations as he thinks fit for the purposes of this Act.
- (2) Regulations made under subsection (1) may provide for the amendment of the Schedules and for exemption from tax leviable under this Act, including exemption in relation to any owner who occupies a campement site exclusively for the purpose of his one and only residence.

48. – 49. —**50. Application**

This Act shall apply to the Island of Mauritius only.

51. Transitional provisions

- (1) A deed referred to in paragraphs (h) and (i) of the definition of “deed of transfer” is deemed not to be included in that definition where the deed is in respect of a *société civile immobilière d’attribution* duly registered prior to 26 August 2004 and holding a building permit under the Building Act relating to the construction for which the *société* has been constituted and which was issued prior to that date.
- (2) Any remission of duty or tax granted under section 46 shall lapse on 1 October 2006.
- (3) (a) Notwithstanding any provision of this Act, where duty and taxes determined in accordance with section 28 and penalty claimed thereon under section 35 have remained unpaid as at 8 November 2013, the penalty shall be waived, provided that –
 - (i) the duty and taxes are paid not later than 30 September 2014; and
 - (ii) at the time of payment, the person withdraws any objection before the Registrar-General, any representations before the Assessment Review Committee under the Mauritius Revenue Authority Act or any appeal before the Supreme Court in relation to the payment of the duty and taxes.

- (b) Paragraph (a) shall not apply to any person –
- (i) who has been convicted on or after 1 July 2003 of an offence relating to;
 - (ii) against whom any civil or criminal proceedings are pending or contemplated in relation to an act of; or
 - (iii) in relation to whom an enquiry is being conducted into an act of, trafficking of dangerous drugs, arms trafficking, or an offence related to terrorism under the Prevention of Terrorism Act, money laundering under the Financial Intelligence and Anti-Money Laundering Act or corruption under the Prevention of Corruption Act.

[Added Act 26 of 2013]

- (4) Subject to the other provisions of this Act and the Registration Duty Act, section 4(1) (i) of this Act and the item 16 of the second schedule to the Registration Duty Act shall not apply to a transfer of part sociale in a *société, which gives right of ownership, occupation or usage in an immovable property or any part thereof, where the deed is in respect of a société civile immobilière d'attribution duly registered before 23 December 2012, provided that the deed of transfer is presented for registration under the Registration Duty Act during the years 2014 to 2016.*

[Added Act 26 of 2013]

[S. 51 inserted by s. 21 (b) of Act 14 of 2005 cio. 21 April 2005; amended by s. 19 (u) of Act 15 of 2006 cio. 7 August 2006.] [Amended Act 26 of 2013]

52. —

First Schedule

[Section 4 (1)]

$$\text{Value: } \frac{N \times I}{C}$$

Where—

- (a) “N” is the nominal value of the share transferred;
- (b) “I” is the value of all the freehold or leasehold immovable properties comprised directly in the assets of the partnership or to which the partnership is entitled by the effect of the constitution of any successive partnership; and
- (c) “C” is the capital of the partnership after deducting therefrom any capital brought to it by the transferee during the period of 3 years immediately preceding the date of the transfer.

[First Sch. amended by s. 12 (j) of Act 28 of 2004 cio. 26 August 2004.]

Second Schedule

[Section 4 (4)]

PART A – TRANSFER OF IMMOVABLE PROPERTY

Rate

<p>a) Transfer at a nominal price of one rupee to an “<i>association syndicale</i>” set up in accordance with articles 664-95 and 664-96 of the Code Civil Mauricien, in respect of an area occupied by common amenities in a morcellement</p>	<p>50 rupees in respect of every lot in the morcellement</p>
<p>(b) Transfer other than under paragraph (a)</p>	<p>5 per cent.</p>

PART B – TRANSFER OF SHARES

Rate

<p>Deed witnessing the transfer of shares in a company</p>	<p>5 per cent</p>
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[Note (b) *cio* 1/1/11; Note (a) *cio* 4/8/11.] [

**PART C – TRANSFER OR ISSUE OF SHARES OR TRANSFER OF
PART SOCIALE**

Rate

(a) Issue of shares by a company or transfer of <i>part sociale</i> in a <i>société</i> which gives right of ownership, occupation or usage in an immovable property or any part thereof–	5 per cent
(b) Transfer of shares in a company or transfer of <i>part sociale</i> in a <i>société</i> which gives right of ownership, occupation or usage in an immovable property or any part thereof–	5 per cent

[Part C added by s. 14 of Act 26 of 2012 cio. 22 December 2012.]

[Second Sch. amended by s. 12 (d) of Act 18 of 2003 cio. 21 July 2003; repealed and replaced by s. 18 (e) of Act 18 of 2008 cio. 19 July 2008; amended by s. 24 (d) of Act 14 of 2009 cio. 30 July 2009; repealed and replaced by s. 10 (c) of Act 10 of 2010 cio. 4 January 2011; GN 149/11 (Note (b) cio 1/1/11; Note (a) cio 4/8/11) ; s. 14 of Act 26 of 2012 cio. 22 December 2012.] [Repealed and replaced Act 26 of 2013]

Third Schedule

[Third Sch. amended by s. 12 (d) of Act 18 of 2003 cio. 21 July 2003; repealed by s. 19 (v) of Act 15 of 2006 cio. 7 August 2006.]

Fourth Schedule

Fifth Schedule
[Section 23 (1)]

PART I

A	B	C	D	E
1. From the boundary separating Trou aux Biches Public Beach declared under General Notice 206 of 1940 and the southern limit of Trou aux Biches Fish Landing Station to Anse La Raie Youth Camp	From Anse La Raie Youth Camp to southern boundary of Bassin Faoulez		From southern boundary of Bassin Faoulez to Mouth of Rivière du Rempart	
2. From Pointe de Flacq Cemetery to Limekiln Trou d'Eau Douce	From the Mouth of Rivière du Rempart to Pointe de Flacq Cemetery			
3. From Pointe Jérôme Youth Camp to public beach at La Cambuse declared under General Notice 2147 of 1996	From Limekiln Trou d'Eau Douce to Mouth of Rivière Sèche	From Mouth of Rivière La Chaux to Pte Jérôme Youth Camp		From Mouth of Rivière Sèche to Mouth of Rivière La Chaux

- | | | | |
|----|--|---|---|
| 4. | From Mouth of Rivière Patates to St Martin Cemetery | From Mouth of Rivière Bain des Négresses to Mouth of Rivière Patates | From public beach at La Cambuse declared under General Notice 2147 of 1996 to Mouth of Rivière Bain des Négresses |
| 5. | From Intersection P.G. l'Embrasure with Black River Savanne Coast Road (B9) to the boundary separating the industrial site leased as hotel and that of golf course at P.G. Le Morne Brabant | From the boundary separating the industrial site leased as hotel and that of golf course at P.G. Le Morne Brabant to Barachois les Salines | From St Martin Cemetery to Intersection P.G. l'Embrasure with Black River Savanne Coast Road (B9) |
| 6. | From Barachois les Salines to northern boundary of Part of P.G. Anna leased as a campement site having as its southern boundary Public Beach P.G. Anna declared under General Notice 348 of 1991 | From northern boundary of Part of P.G. Anna leased as a campement site having as its southern boundary Public Beach P.G. Anna declared under General Notice 348 of 1991 to Public Beach at P.G. Mon Plaisir declared under General Notice 609 of 1991 | From Public Beach at P.G. Mon Plaisir declared under General Notice 609 of 1991 to Mouth of Grand River North West |
| | | | From Mouth of Rivulet Terre Rouge to the boundary lying south of Rue des Aigles, at a distance of 74 metres measured south along Baie du Tombeau Rd (B29) |

7. From Junction of Japonais Rd with Pte aux Piments Mon Choisy Coast Road to the boundary separating Trou aux Biches Public Beach declared under General Notice 206 of 1940 and the southern limit of Trou aux Biches Fish Landing Station
- From the boundary lying south of Rue des Aigles, at a distance of 74 metres measured south along Baie du Tombeau Rd (B29) to Junction of Japonais Road with Pte aux Piments Mon Choisy Coast Road

[Part I amended by GN 109 of 1985; GN 24 of 1987; repealed and replaced by GN 129 of 2007.]

PART II

Rate of Tax	Zone
6 rupees per square metre	A
5 rupees per square metre	B
4 rupees per square metre	C
3 rupees per square metre	D
2 rupees per square metre	E

[Part II repealed and replaced by s. 5 of Act 4 of 1986 cio 1 July 1986; s. 11 (k) of Act 18 of 1999 cio. 1 July 1999.]

PART III
[Section 13]

Rate of campement tax 0.5 per cent

[Part III inserted by s. 17 (k) of Act 20 of 2002 cio. 1 July 2002.]

PART IV
[Sections 12 and 15]

Amount 5 million
rupees

[Part IV amended by s. 17 (k) of Act 20 of 2002 cio. 1 July 2002.]

Sixth Schedule

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[Sixth Sch. repealed and replaced by s. 5 (j) of Act 9 of 1997 cio. 1 July 1997; repealed by s. 19 (v) of Act 15 of 2006 cio. 7 August 2006.]

Seventh Schedule
[Section 26A (1)]

Rate of tax 20 per cent

[Seventh Sch. added by s. 5 (k) of Act 9 of 1997 cio. 1 July 1997.]

Eighth Schedule
[Section 45A (3)]

Deed of transfer—	Part or Parts providing for exemption from duty or taxes
(a) witnessing the transfer of property for consideration or by way of donation— (i) by an ascendant on the one hand to a descendant or the latter's spouse or surviving spouse on the other hand;	Part II, Part III and Part VIA
(ii) —	
(iii) to a charitable trust under the Trusts Act; <i>[Amended GN 140/11 (cio 13/0711).]</i>	Part II, Part III and Part VIA
(iv) between the heirs of a deceased person of property acquired by inheritance from that person; or	Part II, Part III and Part VIA
(v) between the heirs of a deceased person of property acquired by inheritance and acquisition, from other heirs, of undivided rights of the property from that person;	Part II, Part III and Part VIA
(b) witnessing the transfer of property between spouses;	Part II, Part III and Part VIA
(d) where the transfer is made to a company, provided that the transferor holds shares in the company equivalent to at least the value of the land transferred;	Part II, Part III and Part VIA
(ca) where the consideration for which a share is issued takes the form of real property under section 56(2) of the Companies Act, provided that the consideration is equivalent to at least the value of the real property; <i>[Inserted 26/12 (cio 22/12/12).]</i>	Part II, Part III and Part VIA

<p>(d) witnessing that property brought by way of an <i>apport</i> by a partner in a partnership either prior to its constitution and registration or thereafter is, on dissolution of the partnership or in any other manner, attributed to any person other than the one who brought that property into the partnership, if the person has, at the time of joining the partnership, paid taxes under this Act and proportional duty under the Registration Duty Act;</p> <p>or</p> <p>where a deed by which a partner withdraws (<i>se désintéresse</i>) from a partnership owning property, or entitled to property either directly or indirectly by the constitution of successive partnerships, which another partner previously joined, if the partner who previously joined the partnership—</p> <p>(i) has, at the time of joining the partnership, paid taxes under this Act and proportional duty under the Registration Duty Act; and</p> <p>(ii) pays taxes under this Act and proportional duty under the Registration Duty Act on the value of his withdrawal from the partnership;</p>	<p>Part II and Part III</p>
<p>(e) where the transfer is made—</p>	
<p>(i) to the Government of Mauritius;</p>	<p>Part III</p>
<p>(ii) to diplomatic missions;</p>	<p>Part II</p>
<p>(iii) by diplomatic missions;</p>	<p>Part III</p>
<p>(iv) to local authorities;</p>	<p>Part II</p>
<p>(iva) to local authorities in respect of green space or social amenities at a nominal price of one rupee;</p>	<p>Part III</p>
<p>(v) by local authorities;</p>	<p>Part III</p>
<p>(vi) by National Housing Development Company Ltd;</p>	<p>Part III and Part VIA</p>
<p>(vii) by National Housing Development Company Ltd and the immovable property is subsequently acquired by the Company;</p>	<p>Part II, Part III and Part VIA</p>
<p>(viii) to Lois Lagesse Foundation;</p>	<p>Part II</p>

<p>(ix) by a lessee in respect of his leasehold rights in State land and on which stands a house constructed by the National Housing Development Company;</p>	<p>Part VIA</p>
<p>(f) witnessing the transfer of assets or shares between companies forming part of a group of companies as defined in the Companies Act;</p>	<p>Part II, Part III and Part VIA</p>
<p>(fa) witnessing the transfer of shares in a manufacturing company where the transferor is a company incorporated outside Mauritius and the transfer is effected to its subsidiary whether incorporated in Mauritius or abroad;</p>	<p>Part II, Part III and Part VIA (GN162 of 2014)</p>
<p>(g) witnessing the transfer of shares, where the transfer takes place between companies having the same shareholders for the sole purpose of achieving a merger;</p>	<p>Part II, Part III and Part VIA [Amended 26/12 (cio 22/12/12).]</p>
<p>(h) witnessing the transfer of undertaking by a partnership or <i>société</i> to a company where the partners or the associates of the partnership or <i>société</i> and the shareholders of the company are the same persons;</p>	<p>Part II, Part III and Part VIA</p>
<p>(i) witnessing the transfer by Business Parks of Mauritius Limited of the apartments and houses erected in 2003 at Ebène;</p>	<p>Part II and Part III</p>
<p>(j) witnessing the transfer of shares or property, where—</p> <p>(i) a manufacturing company takes over another manufacturing company; or</p> <p>(ii) 2 or more manufacturing companies merge into one manufacturing company,</p> <p>provided that the acquiree and the acquirer satisfy the requirements of section 59A of the Income Tax Act;</p>	<p>Part II, Part III and Part VIA</p>

<p>(k) witnessing the transfer of immovable property by a bank or leasing company to a person pursuant to an arrangement entered into between the bank or leasing company and the person whereby the bank or leasing company initially purchased the immovable property with a view to selling or transferring the same to that person;</p>	<p>Part II, Part III and Part VIA</p>
<p>(L) (i) witnessing the transfer of land under metayage at a mutually agreed price between a planter and a metayer where such transfer is approved by the Mauritius Sugar Authority.</p>	<p>Part II and Part III</p>
<p>(ii) For the purposes of sub-item (i), “land under metayage”, “metayer” and “planter” have the same meaning as in section 19 of the Sugar Industry Efficiency Act;</p>	<p>Part II and Part III</p>
<p>(m) witnessing the transfer of land including any building thereon by—</p> <p>(i) a member to another member of the Mauritius Sugar Producers Association; or</p> <p>(ii) a member of Mauritius Sugar Producers Association to Government or to any entity designated by Government,</p> <p>in connection with the 2,000 arpents to be transferred by the Mauritius Sugar Producers Association (MSPA) following the Government-MSPA deal signed on 22 April 2008, duly certified by the Mauritius Sugar Authority;</p>	<p>Part II and Part III</p>
<p>(n) witnessing the transfer of land by the person implementing a VRS pursuant to section 23 of the Sugar Industry Efficiency Act to the heirs of an employee who passed away between 1 March 2007 and the date a request for the VRS is made.</p>	<p>Part II and Part III</p>

<p>(o) witnessing the transfer of immovable property by the National Housing Development Company Ltd to an individual where the value of the immovable property does not exceed the amount of 600,000 rupees, which amount shall be adjusted every year to reflect any increase in the Construction Price Index;</p>	<p>Part II and Part VIA</p>
<p>(p) witnessing the transfer of leasehold rights by an IHS Company under the Real Estate Development Scheme prescribed under the Investment Promotion Act to a <i>syndicat de co-propriétaires</i> under that Scheme;</p>	<p>Part II, Part III and Part VIA</p>
<p>(q) witnessing the transfer or property by an IHS Company under the Real Estate Development Scheme prescribed under the Investment Promotion Act;</p>	<p>Part VIA</p>
<p>(r) (i) witnessing the transfer of immovable property by a company on the condition that the immovable property so transferred is leased back to the company and the deed of transfer together with the lease back agreement are duly registered at the same time on or before 31 December 2011, provided the transfer has received the prior approval of the ERCP Committee under the Economic Restructuring and Competitiveness Package, referred to in the Ministry's document entitled "Facing the Euro Zone Crisis and Restructuring for Long Term Resilience" and dated August 2010;</p>	<p>Part II and Part III</p>
<p>(ii) witnessing the repurchase (<i>rétrocession</i>) by the company of the immovable property transferred under sub-item (i) within a period of 6 years from the date of registration of the deed of transfer;</p>	<p>Part II and Part III</p>

<p>(iii) witnessing the transfer of immovable property by a shareholder of a company or by a company on the condition that the deed of transfer is registered on or before 31 December 2011 and the proceeds of that transfer are invested in the company within 2 months of the date of registration of the deed, provided the transfer has received the prior approval of the ERCP Committee under the Economic Restructuring and Competitiveness Package, referred to in the Ministry's document entitled "Facing the Euro Zone Crisis and Restructuring for Long Term Resilience" and dated August 2010;</p>	<p>Part III</p>
<p>(s) witnessing the transfer of land at a nominal price of one rupee to Government or, any specified entity or anybody as may be prescribed, pursuant to section 11 (2), (2A) or (3) of the Sugar Industry Efficiency Act.</p>	<p>Part II and Part III</p>
<p>(t) where the transfer is made to –</p> <p>(i) a religious federation eligible to a per capita subsidy from Government, specified in item (u)(i);</p> <p>(ii) a religious body registered under the Registration of Associations Act and affiliated to a religious federation referred to in sub-item (i);</p> <p>(iii) a religious body which is not affiliated to a religious federation referred to in sub-item (i) and eligible to an annual fixed grant from Government, specified in item (u)(ii).</p> <p><i>[Inserted GN 140/11 (cio 13/7/11).]</i></p>	<p>Part II and Part VIA</p> <p>when the tax is payable by the religious federation or religious body, provided that the immovable property is used or a building is constructed for use –</p> <p>(a) as a place for public worship or for the advancement of religion, including religious education;</p> <p>(b) in connection with public worship, such as, as house for a priest or as parking for people</p>

<p>(u) Where the transfer is made to –</p> <p>(i) Adventist Church</p> <p>Ahmadiya Muslim Association</p> <p>Arya Sabha Mauritius</p> <p>Board of Waqf Commissioners</p> <p>Church of England (Anglican)</p> <p>Church of Scotland (Presbyterian)</p> <p>Mauritius Andra Maha Sabha</p> <p>Mauritius Arya Ravived Pracharini Sabha</p> <p>Mauritius Gahlot Rajput Maha Sabha</p> <p>Mauritius Marathi Mandali Federation</p> <p>Mauritius Sanatan Dharma Temples Federation</p> <p>Mauritius Tamil Temples Federation</p> <p>Roman Catholic Church</p> <p>(ii) Brahma Kumaris World Spiritual University</p> <p>Chinmaya Mission</p> <p>ISKCON</p> <p>Shri Kabir Council of Mauritius</p> <p>Shri Sanatan Dharma Mandir Parishad</p> <p>Swastika</p> <p><i>[Inserted GN 140/11 (cio 13/7/11).]</i></p>	<p>attending the place of worship;</p> <p>(c) as an office in relation to the activities of the federation or religious body; or</p> <p>d) as a building for holding social activities.</p>
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<p>(v) where the transfer is made by way of donation or at a nominal price not exceeding 1,000 rupees by a person to a religious federation or religious body referred to in item (s) or to any other religious federation or religious body registered under the Registration of Associations Act and having as its main object, the advancement of religion.</p> <p><i>[Inserted GN 140/11 (cio 13/7/11).]</i></p>	<p>Part II, Part III and Part VIA</p>
<p>(w) witnessing the transfer of land to, or a housing unit by, the housing development trust, or any other non-profit vehicle, which carries out the construction of social housing, registered with the committee set up under section 50L(3) of the Income Tax Act.</p> <p><i>[Added GN 236/11 (cio 1/1/12).]</i></p>	<p>Part II and Part III</p>
<p>(x) witnessing the transfer of an immovable property by a bank, or non-bank deposit taking institution, under the Banking Act, where the property was acquired by the bank, or non-bank deposit taking institution in connection with the recovery of debts, provided that the transfer is made within a period of 12 months from the date of its acquisition;</p> <p><i>[Added GN 236/11 (cio 1/1/12); amended GN 42/12 (cio 31/3/12).]</i></p>	<p>Part III</p>

<p>(y) where the transfer of an immovable property is made, by way of donation or at a nominal price not exceeding 1,000 rupees, by a person to a charitable institution registered under the Registration of Associations Act, the objects of which –</p> <ul style="list-style-type: none"> (i) are of a public character; (ii) do not yield any profits to its members; and (iii) are exclusively - <ul style="list-style-type: none"> (A) the relief of poverty, sickness or disability; (B) the protection of the environment; or (C) the promotion of any other public object beneficial to the community, <p>provided that the immovable property acquired by the charitable institution is used directly in connection with its activities. Part II, Part III and Part VIA</p> <p><i>[Inserted GN 42/12 (cio 31/3/12).]</i></p>	<p>Part II, Part III and Part VIA</p>
<p>(z) witnessing the transfer by a bank, holding a Certificate of Transfer of Undertaking issued under section 346A of the Companies Act, of the whole or part of its undertaking under section 32A of the Banking Act in respect of all assets, except the appropriate registration duty specified in Part VII of the First Schedule to the Registration Duty Act;</p> <p><i>[Inserted GN 118/13 (cio 18/4/13); amended GN 172/13 (cio 1/7/13).]</i></p>	<p>Part II, Part III and Part VIA</p>

