



George Henry Partners LP

Legal Update

The Stamps (Amendment) Act 2022 – Stamp Duty Exemption for First Time Belonger Buyers

Introduction

The Stamps (Amendment) Act 2022 (the **Act**) is now in force, having been granted assent by the Governor on 21 March 2022 and is anticipated to have a positive impact on the number of property transactions taking place in the British Virgin Islands.

The exemption

Stamp duty is a documentary tax that is levied in connection with certain specified legal documents. The primary legislation governing the assessment of stamp duty in the BVI is the Stamp Act. The Act amends the Schedule to the Stamp Act by exempting certain Instruments effecting the sale or transfer of BVI property from the obligation to pay stamp duty.

The exemption applies only in respect of the sale or transfer of BVI property:

- to a Belonger who is a first-time property owner; and
- for a period of one year from the coming into force of the Act.

The exemption under the Act is expressed to apply to Instruments effecting both the sale and the transfer of BVI property to Belongers. The exemption under the Act therefore captures transfers of property in consideration of natural love and affection, notwithstanding only nominal stamp duty is typically payable in connection with such transfers.

In the context of BVI property transactions, stamp duty is typically paid by the purchaser.

Belongers and Non-Belongers

In broad terms, Belonger status is a legal classification that is associated with a number of British Overseas Territories, though the requirements to attain this status and the rights that such status confers, vary from territory to territory.

As far as the BVI is concerned, a Belonger is a person deemed to belong to the BVI according to the Virgin Islands Constitution Order 2007.

The Stamp Act

Where the exemption under the Act does not apply, the stamp duty payable in connection with the sale of BVI property to a Belonger shall be calculated at a rate of 4% of the higher of the purchase price and the market value of the property in question.

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The Non-Belongers Land Holding Regulation Act

In general terms, the rate of stamp duty payable in respect of Instruments effecting the sale or transfer of BVI property to Non-Belongers is higher compared with that payable by Belongers. For example, the Non-Belongers Land Holding Regulation Act (the **NBLHR Act**) provides that the stamp duty payable in connection with the sale of BVI property to a Non-Belonger is calculated at a rate of 12% of the higher of the purchase price and the market value of the property in question.

The Act does not apply to Instruments effecting the sale or transfer of BVI property to Non-Belongers and the provisions of the Stamp Act in conjunction with the NBLHR Act will continue to govern the stamp duty regime in respect of such Instruments.

First time property owners

The Act does not include a definition of a first-time property owner and it is unclear at this stage what verification will be undertaken to determine whether a person is indeed a first-time property owner.

Conclusion

The Act provides for significant stamp duty savings for Belongers in a position to take advantage of the exemption.

Belonger purchasers wishing to take advantage of the exemption should bear in mind that the Act provides that where a Belonger benefits from the exemption under the Act and subsequently sells or transfers the property to a Non-Belonger within a period of seven years, the stamp duty waived by way of the exemption shall become due.

For more information or if you require any assistance with your BVI property transaction, please feel free to [email us](#) or reach out to one of our lawyers using the contact details below.

Contact Us

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