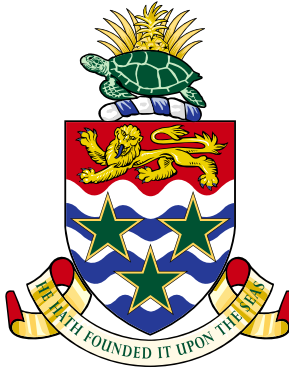


CAYMAN ISLANDS



LAND HOLDING COMPANIES SHARE TRANSFER TAX ACT

(2022 Revision)

Supplement No. 3 published with Legislation Gazette No. 5 of 25th January, 2022.

PUBLISHING DETAILS

Law 14 of 1976 consolidated with Laws 15 of 1978, 25 of 1978, 20 of 1983, 18 of 1991, 31 of 1993, 15 of 2001, 31 of 2001, 28 of 2002, 17 of 2006, 32 of 2006, 10 of 2015 and 35 of 2020 and as amendeded by Act 56 of 2020.

Revised under the authority of the *Law Revision Act (2020 Revision)*.

Originally enacted —

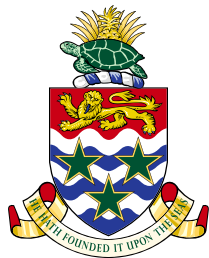
Law 14 of 1976 -7th September, 1976
Law 15 of 1978-15th June, 1978
Law 25 of 1978-28th November, 1978
Law 20 of 1983-21st June, 1983
Law 18 of 1991-11th September, 1991
Law 31 of 1993-29th November, 1993
Law 15 of 2001-25th May, 2001
Law 31 of 2001-14th November, 2001
Law 28 of 2002-5th December, 2002
Law 17 of 2006-9th June, 2006
Law 32 of 2006-10th November, 2006
Law 10 of 2015-19th June, 2015
Law 35 of 2020-4th September, 2020
Act 56 of 2020-7th December, 2020.

Consolidated and revised this 31st day of December, 2021.

Note (not forming part of this Act): This revision replaces the 2016 Revision which should now be discarded.



CAYMAN ISLANDS



LAND HOLDING COMPANIES SHARE
TRANSFER TAX ACT
(2022 Revision)

Arrangement of Sections

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CAYMAN ISLANDS



LAND HOLDING COMPANIES SHARE TRANSFER TAX ACT

(2022 Revision)

Short title

1. This Act may be cited as the *Land Holding Companies Share Transfer Tax Act (2022 Revision)*.

Definitions

2. In this Act —

“**charitable corporation**” means a corporation whose main objects are charitable and which has been certified as such by the Cabinet;

“**corporation**” includes a partnership, a foreign corporation, a chartered corporation, a mutual fund and a company incorporated under the *Companies Act (2022 Revision)* but does not include a corporation sole or a charitable corporation;

“**equity capital**” with respect to a corporation includes all shares, stock and scrip whether registered or inscribed which, other than by way of a fixed and predetermined right to interest and repayment of subscribed capital at par, entitles the owner to any variable right of participation in the corporation’s profit, whether by way of dividend, bonus, conversion or distribution upon winding-up;

“**immovable property**” means immovable property in, on, under or over land in the Cayman Islands including all structures built into or adhering to such land,

but does not include tenant's fixtures, or removable fixtures or power plants installed for the purpose of trade, industry, agriculture or animal husbandry;

"land holding" means every legal or beneficial interest in landed property other than such interest held by a legal or equitable mortgagee or chargee by way of *bona fide* security for the payment of money or money's worth;

"land holding corporation" means a corporation, other than a charitable corporation and such other corporations as the Cabinet may by notice published in the Gazette for the time being specify, which —

- (a) is the legal or beneficial owner of any land holding; or
- (b) is the legal or beneficial owner of any equity capital of a land holding corporation;

"landed property" means every legal or beneficial interest in, or claim to or over immovable property whether freehold or leasehold provided that in the case of leasehold property, the original lease was for a term exceeding thirty years;

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

"mutual fund" has the same meaning as given in section 2 of the *Mutual Funds Act (2021 Revision)*;

"partnership" includes a limited partnership established pursuant to the *Partnership Act (2013 Revision)* and a general or limited partnership established pursuant to the laws of any other jurisdiction;

"share" includes an interest in a partnership, stock and all other subdivisions of equity capital;

"transfer" includes, in addition to a transfer of shares, every dealing or transaction, whether by the issue of shares, the placement of shares, the grant or take up of any rights, the exchange of shares, the conversion of shares, the grant or exercise of an option or other means howsoever whereby equity capital undergoes a change of beneficial ownership or proportion of ownership or a change occurs in the entitlement or potential entitlement of any person to a share in the distribution of a corporation's profit or capital.

Returns, etc., of transfers to be delivered and tax payable

3. (1) Within thirty-one days of any transfer of any equity capital of a land holding corporation such corporation shall deliver to the Minister charged with responsibility for Finance —
 - (a) the instrument, if any, whereby such transfer is effected;



- (b) a return in the prescribed form containing the prescribed particulars relating to the corporation, its landed property, the transfer and connected matters; and
- (c) a sum for the benefit of the revenue —
 - (i) equivalent to seven and one-half per cent of the consideration for or of the taxable value of the transfer whichever is greater in the case where fifty per cent or more of the market value of the landed property of the land holding corporation is situate in any of the following registration sections, blocks and parcels —

Registration Section	Block
(A) West Bay	5C, (parcels with water frontage only, but including any parcel subsequently derived from another parcel with water frontage existing at the 9th June, 1997) 5D, 10A, 10E, 11B, 11C, 11D, 12C (parcels with water frontage only, but including any parcel subsequently derived from another parcel with water frontage existing at the 1st July, 2006), 12D, 12E, 17A.
(B) George Town	13B, 13C, 13E, 13EH (parcels with road frontage on West Bay Road, Eastern Avenue and North Church Street) 13D (parcels with road frontage on Eastern Avenue) 14BG, 14BH, 14BJ, 14CJ, OPY, 18A; or

- (ii) equivalent to —
 - (A) seven and one half per cent of the taxable value of such transfer, if the transferee is a Caymanian; or
 - (B) seven and one half per cent of the taxable value of such transfer, if the transferee is not a Caymanian,

in the case where fifty per cent or more of the market value of the landed property of the landed corporation is situate in areas not specified in subparagraph (i).

- (2) For the purposes of subsection (1)(c)(ii), “Caymanian” means a person who possesses Caymanian status under the **repealed** *Immigration Act (2015 Revision)* or any earlier law providing for the same or similar rights, and includes a person who acquired that status under Part 5 of the *Immigration (Transition) Act (2022 Revision)*;



- (3) For the purposes of this section, the taxable value of a transfer shall be a sum equivalent to the same proportion of the total market value of all the landed property of the relevant corporation at the time of the transfer as the nominal value of the share, or shares, to which the transfer relates bears to the nominal value of the whole of the issued equity capital of the corporation.
- (4) Where the Minister charged with responsibility for Finance is satisfied that there is a transfer of land holding to or from a land holding corporation and the transfer is, as the case may be, from or to a person or persons who in aggregate are the legal and beneficial owners of not less than forty-five per cent of the shares in the land holding corporation, then the Minister may, in the Minister's absolute discretion, abate the sum due and payable under the provisions of subsection (1)(c) by such percentage, not being a percentage greater than the aforementioned person or persons percentage holding in the said company, as the Minister shall think fit.

Transfers between trustees, etc.

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

Approved land holding corporations

5. (1) Subject to this section, the Minister charged with responsibility for Finance, on application made by a land holding corporation, may approve the land holding corporation for the purposes of section 4(3).



- (2) Approval under subsection (1) shall be in writing and shall be subject to such conditions (if any) as the Minister charged with responsibility for Finance sees fit.
- (3) The Minister charged with responsibility for Finance shall not approve a land holding corporation under subsection (1) unless that Minister is satisfied that the corporation is in compliance with the following conditions, namely —
 - (a) that in the case of a land holding corporation which is a mutual fund —
 - (i) the mutual fund is licensed under the *Mutual Funds Act (2021 Revision)*;
 - (ii) the mutual fund is listed on the Cayman Islands Stock Exchange;
 - (iii) the mutual fund invests exclusively in immovable property in the Islands; and
 - (iv) there are no public interest reasons why the approval should not be granted; and
 - (b) that in the case of any other land holding corporation —
 - (i) land holding is incidental to the main business of the corporation;
 - (ii) the corporation is listed on a stock exchange approved by the Minister charged with responsibility for Finance; and
 - (iii) there are no public interest reasons why the approval should not be granted.
- (4) A land holding corporation in respect of which approval has been granted under this section shall, on the anniversary date of the initial grant, submit to the Minister charged with responsibility for Finance an annual declaration that the corporation is in compliance with the conditions of the approval.
- (5) An annual declaration made by a land holding corporation under subsection (4) shall be signed by two directors of the corporation and shall be accompanied by the annual fee prescribed in the Schedule.
- (6) The names of land holding corporations approved under this section shall be published in the Gazette.
- (7) If the Minister charged with responsibility for Finance is of the opinion that a land holding corporation approved under this section has failed —
 - (a) to comply with a condition of the approval under subsection (2) or (3);
 - (b) to submit an annual declaration under subsection (4); or
 - (c) to submit the annual fee prescribed in the Schedule,the Minister charged with responsibility for Finance may revoke the approval.
- (8) The Cabinet may, by order, amend the Schedule.

Regulations

6. The Cabinet may make regulations prescribing forms and procedures to be used in compliance with this Act.

Offence of neglecting to make return, etc.

7. (1) A person who being a director, manager or secretary of a land holding corporation, fails to comply with section 3 commits an offence and is liable on summary conviction to a fine of one thousand dollars and to imprisonment for six months; and every land holding corporation in respect of which default under section 3 is made commits an offence and is liable on summary conviction to a fine of one thousand dollars or three times the duty otherwise payable under this Act whichever is the greater.
- (2) In addition to any liability to a penalty under subsection (1), where any sum required to be paid under section 3 is not fully paid by the due date, the corporation concerned shall be liable to pay interest at the rate of ten per centum per annum for the first month or part of a month and thereafter at the rate of twenty per cent per annum upon the amount for the time being remaining unpaid.
- (3) Subsection (2) shall apply to any sum that was due under section 3 to be paid by a date earlier than the 1st July, 2006 as though the due date for its payment were the 1st July, 2006.

Offence of making false statements, etc.

8. A person who makes any return under section 3 or any statement relevant to the liability of any person or corporation thereunder containing matter in the truth of which that person does not believe (proof of their belief being upon the person) commits an offence and is liable on summary conviction to a fine of one thousand dollars and to imprisonment for six months.

Valuation disputes

9. Should any dispute arise as to the market value of any property for the purpose of compliance with section 3 it shall be settled in the same manner as a stamp duty adjudication under the *Stamp Duty Act (2019 Revision)* with the same right of appeal from decisions of the Minister charged with responsibility for Finance in that Minister's capacity of adjudicator.



SCHEDULE**FEE**

Fee to accompany an annual declaration under section 5(5)	\$5,000.00
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Publication in consolidated and revised form authorised by the Cabinet this 11th day of January, 2022.

Kim Bullings
Clerk of Cabinet

Note: For transitional provisions and validation affecting the 2003 Revision of the Law, as amended by the Land Holding Companies Share Transfer Tax (Amendment) Law, 2006 [Law 17 of 2006] please see sections 7 and 8 of that latter Law.

ENDNOTES

Table of Legislation history:

SL #	Law/Act #	Legislation	Commencement	Gazette
	56/2020	Citation of Acts of Parliament Act, 2020	3-Dec-2020	LG89/2020/s1
	35/2020	Civil Partnership Law, 2020	4-Sep-2020	LG64/2020/s1
E3/2016		<i>Erratum:</i> Land Holding Companies Share Transfer Tax Law (2016 Revision)	2-Sep-2016	GE82/2016/p1
		Land Holding Companies Share Transfer Tax Law (2016 Revision)	2-Sep-2016	GE69/2016/s13
	10/2015	The Land Holding Companies Share Transfer Tax (Amendment) Law, 2015	1-Jul-2015	GE49/2015/s4
		Land Holding Companies Share Transfer Tax Law (2007 Revision)	23-Jul-2007	G15/2007/s6
	32/2006	Land Holding Companies Share Transfer Tax (Amendment) (No.2) Law, 2006	27-Dec-2006	G26/2006/s3
	17/2006	Land Holding Companies Share Transfer Tax (Amendment) Law, 2006	1-Jul-2006	GE14/2006/s9
	28/2002	Land Holding Companies Share Transfer Tax (Amendment) Law, 2002	10-Feb-2003	G3/2003/s1
	31/2001	Land Holding Companies Shared Transfer Tax (Amendment) (Temporary Provisions) Law, 2001	14-Nov-2001	GE28/2001/s2
	15/2001	Land Holding Companies Shared Transfer Tax (Amendment) (Variation of Tax) Law, 2001	1-Jun-2001	GE11/2001/s19
		Land Holding Companies Share Transfer Tax Law (1995 Revision)	20-Mar-1995	G6/1996/s6
	31/1993	The Land Holding Companies Share Transfer Tax (Amendment) Law, 1993	14-Dec-1991	GE14Dec/1993/s8
	18/1991	The Land Holding Companies Share Transfer Tax (Amendment) Law, 1991	6-Nov-1991	GE6Nov91/s3
	20/1983	Land Holding Companies Share Transfer Tax (Amendment) Law, 1983	8-Aug-1983	G16/1983/s7
	25/1978	Land Holding Companies Share Transfer Tax (Amendment) (No 2.) Law, 1978	18-Dec-1978	G26/1978/s4
	15/1978	Land Holding Companies Share Transfer Tax (Amendment) Law, 1978	4-Jul-1978	G14/1978/s8
	14/1976	Land Holding Companies Share Transfer Tax Law, 1976	1-Jan-1977	G20/1976/s2





(Price: \$3.20)

